

Official Gazette



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**EXECUTIVE ORDERS, PROCLAMATIONS
AND ADMINISTRATIVE ORDERS**

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 49

CONFERRING THE TEMPORARY RANK OF LIEUT-
ENANT GENERAL UPON THE CHIEF OF STAFF
OF THE ARMED FORCES OF THE PHILIPPINES

Pursuant to the authority vested in me by sections 9 and 11 of Republic Act No. 291, I, Ramon Magsaysay, President of the Philippines, do hereby order that the temporary rank of Lieutenant General shall be conferred upon the Chief of Staff of the Armed Forces of the Philippines: *Provided*, That this temporary rank shall carry no increase in pay, allowances and emoluments whatsoever, and that said rank shall be held only while the officer concerned holds that office, or at the pleasure of the President.

Done in the City of Manila, this 23rd day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 50

TERMINATING THE COLLECTION OF TOLLS AT THE
HIBAGNAN TOLL BRIDGE, PROVINCE OF LEYTE

The total cost of the Hibagnan Toll Bridge, in the Province of Leyte, plus interest at the rate of 4 per cent p

annum, having been fully recovered, as certified in accordance with the provisions of Act No. 3500, as amended, it is hereby ordered that the collection of tolls at the Hibagnan Toll Bridge be terminated.

This Order shall take effect upon receipt of copy hereof by the Provincial Treasurer of Leyte.

Done in the City of Manila, this 10th of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 51

AMENDING EXECUTIVE ORDER NUMBERED FOUR
HUNDRED SEVENTY-FIVE AND FOR OTHER
PURPOSES

By virtue of the powers vested in me by section 4 of Republic Act No. 1168, entitled "An Act to provide for the fixing, under certain conditions, of the maximum selling prices of commodities in short supply, creating the Price Control Office, and for other purposes," and upon the recommendation of the General Manager and the Board of Directors of the PRISCO, I, Ramon Magsaysay, President of the Philippines, do hereby order:

SECTION 1. Section 1 of Executive Order No. 475, dated October 5, 1951, is hereby amended by reducing and setting up new ceiling prices of the following:

Commodity	Unit	Whole sale's Price	Retailer's Price
Imported (Macan equivalent—NARIC old stock, remilled)	Ganta	P0.77	P0.75
Native, Macan 2nd Class	Ganta80	.85

SEC. 2. This Order shall take effect immediately after its publication in a newspaper of general circulation.

Done in the City of Manila, this 10th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 52

CREATING THE JOSE RIZAL NATIONAL
CENTENNIAL COMMISSION

WHEREAS, the 19th day of June of 1961 will be the First Centennary of the birth of Jose Rizal, Apostle of Filipino nationalism, martyr and hero;

WHEREAS, Jose Rizal gladly dedicated his whole life in order to secure for his countrymen the blessings of individual freedom and good government;

WHEREAS, through his incessant labors he enriched our cultural personality and thereby enhanced it in the eyes of the world and by defending our rights and dignity as a race to the extent of sacrificing his life, he welded the Filipino people into one compact nation imbued with common national ideals; and

WHEREAS, by example and precept he showed us what a true Filipino should do and, therefore, it is the duty of the Philippines to propagate his ideas and ideals of private as well as public life for the emulation of his countrymen and of all peoples;

Now, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, in appreciation of the popular sentiment that this event of extraordinary national significance be properly observed, do hereby create a Jose Rizal National Centennial Commission of fifteen members, composed of the following:

The Secretary of Education Chairman
The Secretary of Finance Co-Vice

Chairman

The Supreme Commander of the Order of the Knights of Rizal	Co-Vice Chairman
The Chairman of the Committee on Education of the Senate	Member
The Chairman of the Committee on Education of the House of Representatives	Member
The President of the University of the Philippines ..	Member
The Chairman of the UNESCO National Commission	Member
The Director of Public Libraries and Chairman of the Philippine Historical Committee	Member
The Director of Public Schools	Member
The Director of Private Schools	Member
Five other persons to be selected by the above-mentioned officials from the cultural, educational and civic organizations of the country	Member

The Commission shall have the following duties and functions:

1. Prepare the general program of the Centennary and submit it to the President of the Philippines for his approval;
2. Promote and direct commemorative celebrations throughout the Philippines and wherever Filipino communities exist;
3. Edit and publish all the works of Jose Rizal and such works of others about him as are considered necessary in the proper understanding of the meaning of his life and labours;
4. Erect a grand monument in honor of Jose Rizal in the Capital of the Philippines;
5. Initiate the holding of an International Congress in the Capital of the Philippines to which shall be invited, as official guests of the Republic of the Philippines, such foreign individuals as have become known for their love for Rizal and his works;
6. Arrange for the issuance of commemorative stamps of the Centennary;
7. Create Jose Rizal medals to commemorate the Centennary to be awarded to persons and associations having juridical personalities who have contributed to the understanding and propagation of the teachings of Rizal;
8. Administer all funds donated to it by the public and the Government for the purposes of the Centennary; and
9. Take all other measures necessary for the successful execution of all the programs and activities adopted in celebration of the Centennary.

The Commission shall report from time to time, but not less than once in six months, its activities and functions to the President, who shall cause such report to be published for the information and guidance of the public.

Done in the City of Manila, this 10th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 53

AMENDING FURTHER THE FIRST PARAGRAPH OF EXECUTIVE ORDER NO. 79, DATED DECEMBER 17, 1945, ENTITLED "CREATING A QUEZON MEMORIAL COMMITTEE TO TAKE CHARGE OF THE NATION-WIDE CAMPAIGN TO RAISE FUNDS FOR THE ERECTION OF A NATIONAL MONUMENT IN HONOR OF THE LATE PRESIDENT MANUEL L. QUEZON"

The first paragraph of Executive Order No. 79, dated December 17, 1945, entitled "Creating a Quezon Memorial Committee to Take Charge of the Nation-Wide Campaign to Raise Funds for the Erection of a National Monument in Honor of the Late President Manuel L. Quezon," as amended, is hereby further amended so as to include the President of the Quezon Society as additional member thereof.

Done in the City of Manila, this 10th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 54

ORDERING THE FURNISHING OF COMPLETE SERVICE RECORDS OF ALL PERSONNEL OF THE REPUBLIC OF THE PHILIPPINES TO THE GOVERNMENT SERVICE INSURANCE SYSTEM

For the purpose of section 13 of Commonwealth Act No. 186, as inserted by Republic Act No. 660 and amended by Republic Act No. 728, and in order to provide reliable bases for the valuation of the retirement insurance fund created under the aforementioned Acts, and to enable the Government Service Insurance System to serve its members more expeditiously, I, Ramon Magsaysay, President of the Philippines, do hereby order that each employee shall reconstruct the record of his services in the Government and his employer shall certify such service record by following the procedure to be prescribed by the Government Service Insurance System.

Such service record shall be submitted to the System within ninety (90) days from the date of this Order, or within sixty (60) days from the date of his reemployment if he be not in the service on the date of this Order, together with the certificates, affidavits and other documents relied upon for the reconstitution of said records.

Any certified copy of document or paper that may be necessary in the reconstitution of a service record shall be furnished, free of charge, by any office, instrumentality or corporation of the Government.

Employees and their employers shall report to the Government Service Insurance System additions or changes in the Member's Service Record Cards that will have been furnished said Office.

Given in the City of Manila, this 10th day of August, 1954, Year of Our Lord, nineteen hundred and fifty-four, the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 55

AMENDING SECTION 2 OF EXECUTIVE ORDER
NO. 111, DATED AUGUST 30, 1937, ENTITLED
"PROHIBITING AND RESTRICTING THE PRAC-
TICE OF NEPOTISM"

Section 2 of Executive Order No. 111, dated August 30, 1937, is hereby amended to read as follows:

"2. When there is already one member of a family in an Office or Bureau, no other member of such family shall be eligible for appointment to any position therein."

Done in the City of Manila, this 11th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 56

TRANSFERRING THE SEAT OF GOVERNMENT OF
THE MUNICIPALITY OF LALA, PROVINCE OF
LANAO, FROM ITS PRESENT LOCATION TO THE
BARRIO OF LANIPAO OF THE SAME MUNIC-
IPALITY

Upon the recommendation of the Provincial Board of Lanao and pursuant to the provisions of section 68 of the Revised Administrative Code, the seat of government of the municipality of Lala, Province of Lanao, is hereby transferred from its present location to the barrio of Lanipao of the same municipality.

The transfer herein made shall take effect immediately.

Done in the City of Manila, this 13th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 57

CREATING THE COMMUNITY DEVELOPMENT PLANNING COUNCIL AND DEFINING ITS FUNCTIONS AND ACTIVITIES

In order to implement the program of community development throughout the Philippines, to carry out effectively the program of giving the rural population fair and full opportunities in the pursuit of a dignified and abundant life, and to provide effective planning and coordinating machinery in insuring the success of the above policies, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. There is hereby created an advisory body to be known as the Community Development Planning Council. The Council shall be composed of the Chairman of the National Economic Council, as Chairman, the Executive Secretary, the Secretary of Agriculture and Natural Resources, the Secretary of Health, the Secretary of Education, the Secretary of Public Works and Communications, the Secretary of National Defense, the Social Welfare Administrator, and three private citizens who shall be appointed by the President and who shall hold their positions at his pleasure, as members.

SEC. 2. The Chairman shall preside at the meetings of the Council, and in his absence, the member present who is the ranking Secretary of Department shall preside. In his absence the Chairman may designate his representative to attend the meetings of the Council. Each Secretary or Head of Department or other office of the Government who is an exofficio member of the Council may designate his representative to attend the meetings of the Council in his absence.

SEC. 3. The Council shall have the following functions and activities:

(1) To formulate short and long range plans and institute measures in cooperation with existing agencies, calculated to improve the rural economy and the proper utilization of manpower; improve health and promote healthful living; promote community organization; develop youth and rural leadership; promote spirit of self-help, self-reliance and self-respect; and improve community facilities.

(2) To coordinate and, if feasible, integrate the activities of the different branches, instrumentalities and agencies of the government engaged in rural development projects in order to achieve maximum benefits, effect economy, avoid duplication and overlapping of activities and loss of time.

(3) To bring as much as possible every facility of the government and of civic organizations into play for the effective implementation of a nation-wide program for rural community development.

(4) To study and recommend legislation tending to improve the rural areas and people, especially that relating to the financing of rural projects and the strengthening of local government.

(5) To promote and facilitate the organization of community development councils at provincial, municipal and barrio levels and to help promote their growth and development.

(6) To submit annual reports of its activities or any other reports which the President may require from time to time.

(7) To administer wisely and judiciously the funds assigned to it by the President.

(8) To organize an administrative machinery for the proper functioning of the Council.

SEC. 4. The Council shall coordinate its community development activities with the nation-wide development program of the National Economic Council and shall solicit the advice of the latter in matters involving policy, planning, programming and financing of projects.

SEC. 5. The Council is hereby authorized to create local Councils to assist in the performance of its functions and to adopt such rules and regulations as it may deem necessary to carry out the purposes of this Order. It may secure the services of officers and employees of any department, bureau, office, agency, or instrumentality of the Government, including corporations owned or controlled by it, whose assistance it may require in accomplishing its task.

Done in the City of Manila, this 16th day of August in the year of Our Lord, nineteen hundred and fifty-four and of the Independence of the Philippines, the ninth

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACANANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 58

DECLARING CORREGIDOR AND BATAAN NATIONAL SHRINES, OPENING THEM TO THE PUBLIC AND MAKING THEM ACCESSIBLE AS TOURIST ATTRACTIONS AND SCENES OF POPULAR PILGRIMAGES, AND CREATING A COMMISSION FOR THEIR DEVELOPMENT AND MAINTENANCE

Pursuant to the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby order:

1. All battlefield areas in Corregidor Island and Bataan province are hereby declared National Shrines, and, except such portions as may be temporarily needed for the storage of ammunition or deemed absolutely essential for safeguarding the national security, are opened to the public, accessible as tourist resorts and attractions, as scenes of popular pilgrimages and as recreational centers.

2. A Corregidor-Bataan National Shrines Commission is hereby created to lay out plans for the conservation and development of said National Shrines with a view to glorifying the memory and scenes of Philippine-American resistance to aggression and to inspiring the nation as well as the rest of the free world into an unrelenting defense of democracy and freedom throughout the ages.

3. The Commission shall be composed of the Secretary of National Defense, as Chairman, the Secretary of Agriculture and Natural Resources and the Secretary of Commerce and Industry, as Vice-Chairmen, the Secretary of Public Works and Communications, the Chief of Staff of the Armed Forces of the Philippines, the Civil Aeronautics Administrator, the President of the Philippine Association, the President of the Philippine Tourist and Travel Association, the President of the USAFFE Veterans Legion, the Supreme Councilor of the Defenders of Bataan and Corregidor and the Chairman of the Historical Markers Committee, as members.

4. The Commission shall immediately proceed to determine the historic areas to be preserved, developed and beautified for the purposes of this order, establish the boundaries thereof and mark them out properly. Within 30 days from the issuance of this order, the Chief of Staff of the Armed Forces of the Philippines shall have marked out the areas in the Corregidor-Bataan battlefields to be reserved exclusively for temporary military uses, at the same time taking immediate steps to remove military stores and other dangerous objects, especially unexploded mines, bombs and shells along the road leading to or within the historic sites. The Commission shall conduct studies and prepare a general plan for the development of national parks embracing all the historic areas and recommend to the President a plan for appropriate memorials or monuments wherever they are deemed de-

sirable, taking into account the topography, vegetation and historical background of the places selected for the purpose.

6. The Commission shall also immediately take steps towards the reconditioning of the air-strip in Corregidor and the construction of another at a convenient site in Bataan as well as the construction of suitable rest-houses for tourists and visitors in convenient locations in both places. For rest-house purposes, preference shall be given to the reconstruction and restoration to as nearly like the original as possible of the cottage occupied by General MacArthur in Corregidor and of any building in Bataan which has historic background connected with the last war.

7. The Secretary of Public Works and Communications, the Armed Forces of the Philippines and the Civil Aeronautics Administration are hereby directed to give priority to these improvements and to make available for their immediate realization such funds as they may be in a position to dispose of out of their respective current appropriations for similar projects.

8. The Commission may cooperate with the U. S. Bataan-Corregidor Memorial Commission and, if it so deems proper, endeavor to bring about an integration of the plans of both bodies into a common project.

9. The Commission may call on any department, bureau, office, agency or instrumentality of the government for such assistance as it may need in the preparation and execution of its plans or in the maintenance of the services to be established.

10. All executive orders, administrative orders and proclamations or parts thereof inconsistent with any of the provisions and purposes of this Order are hereby repealed or modified accordingly.

11. This Order shall take effect immediately.

Done in the City of Manila, this 16th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 59

PROVIDING FOR FACILITIES NECESSARY TO DECLARE EFFECTIVITY OF REPUBLIC ACT NO. 832 IN ALL PROVINCES AND CHARTERED CITIES OF THE PHILIPPINES ACCORDING TO A DEFINITE SCHEDULE OF DATES

WHEREAS, section 10 of Republic Act No. 832 entitled "An Act to regulate the sale, exchange, or delivery of Home Pounded, Under-Milled, Milled or Polished Rice, and providing penalty for violation thereof," provides that the Act shall take effect upon the proclamation of the President of the Philippines when the Secretary of Health certifies that the province or provinces and cities concerned have already the facilities necessary to implement the law;

WHEREAS, actual experience in the provinces of Bataan, Tarlac and Pangasinan, where the law has been effective since February 25, 1953, has shown that the following measures are necessary to insure the successful implementation of Republic Act No. 832:

(a) All provinces and cities must be declared under the law within the shortest practicable period under a definite schedule of dates.

(b) The distribution and sales of Premix Rice must be extended and carried out aggressively and efficiently in order that all rice mills, irrespective of where they are located, will be able to procure it conveniently and readily and thus avoid any excuse for non-compliance with the law.

(c) Availability of approved feeders must be assured and their installation in rice mills must be expedited to conform to the above-mentioned schedule.

(d) The price of Premix Rice and the premiums on enriched rice must be regulated and controlled by the government.

(e) The educational campaign by government agencies must be intensified in order that all sections of the public may realize the benefits derived from the enforcement of this law.

WHEREAS, in line with the above findings, it is intended to proclaim the effectivity of Republic Act No. 832 in all the different provinces and cities in the Philippines in accordance with the schedule of dates attached hereto as Appendix A, when the facilities necessary to implement the law will have already been established;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

1. That the business of manufacturing, distributing and selling Premix Rice now being undertaken by the National Rice and Corn Corporation shall be transferred and entrusted to private enterprises.

2. That the NARIC Premix Plant facilities shall be leased immediately by the National Rice and Corn Corporation under reasonable terms not later than November 30, 1954, to a competent private party who, in the opinion of the Secretary of Health, can satisfactorily carry out the commercial phase involved for the successful implementation of the law, and who will cooperate with the Department of Health in the promotion of Rice Enrichment in the Philippines.

3. That dollar allocation for the importation of the vitamins and chemicals needed for the manufacture of the Premix Rice shall be set aside yearly in such amounts as may be required, and assigned to bona-fide manufacturers of Premix Rice as certified by the Secretary of Health, to be used exclusively by said manufacturers for the manufacture of Premix Rice only.

4. That the amount of ₱100,000 shall be immediately released from the balance of the appropriation in Republic Act No. 832 to the Institute of Nutrition, Department of Health, to be used for the purchase, transportation, sales and installation of approved feeders as facility required by Republic Act No. 832 for its implementation.

5. That the National Shipyards and Steel Corporation shall manufacture and deliver the type of feeders as approved by the Department of Health according to purchase orders issued to it by the Institute of Nutrition, Department of Health, in quantities up to 500 units per month, and that at least 50 per cent of the invoice value shall be payable to the NASSCO in advance, and full payment of the balance thereof shall be made within 90 days after delivery of each order.

6. That the Department of Health shall encourage the manufacture and sale of approved feeders by private firms, provided that the prices are competitive with those of the National Shipyards and Steel Corporation.

7. That the Department of Health and its agencies shall undertake the distribution and sale of approved feeders to each and every rice miller in the Philippines at actual cost under such a system as to allow rice millers to readily procure and install them not later than 30 days before the dates of effectivity of the law in their respective localities.

8. That each rice miller shall, on his account and responsibility, procure and install the feeder in his rice mill not later than 30 days before the date of effectivity of the law in the locality where his rice mill is erected.

9. That the Department of Health is hereby empowered to issue such orders, rules and regulations as are necessary to implement this order and to control and supervise the price and quality of the Premix Rice manufactured and distributed by the private firms.

10. That the balance of the original appropriation of ₱300,000 in Republic Act No. 832 shall be immediately released for the implementation of this Order.

11. That the Department of Health shall encourage competition in the production and distribution of Premix Rice, provided that such competition will not adversely affect the universal application of the Act.

This Executive Order shall take effect immediately.

Done in the City of Manila, this 24th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

* * *

REPUBLIC OF THE PHILIPPINES

DEPARTMENT OF HEALTH

OFFICE OF THE SECRETARY

MANILA

August 18, 1954

The PRESIDENT OF THE PHILIPPINES

MALACAÑANG

MANILA

SIR:

I hereby certify that all provinces and cities in the Philippines where Republic Act No. 832 is not yet declared effective will have already had the necessary facilities to implement said Act thirty days after the dates indicated hereunder:

1955

January 1	City of Manila Province of Rizal Pasay City Quezon City Dagupan City
April 1	Provinces of: Nueva Ecija Nueva Vizcaya Bulacan Pampanga Mindoro Oriental Mindoro Occidental
	City of: Cabanatuan
July 1	Provinces of: Laguna Batangas Cavite Quezon Marinduque Zambales La Union Mountain Province

Cities of:

Baguio
San Pablo
Lipa
Cavite
Tagaytay

October 1 Provinces of:

Cagayan
Isabela
Ilocos Norte
Ilocos Sur
Abra
Batanes

1956

January 1 Provinces of:

Albay
Sorsogon
Camarines Norte
Camarines Sur
Catanduanes
Masbate

City of:

Naga

April 1 Provinces of:

Samar
Leyte
Cebu
Negros Oriental
Surigao
Bukidnon
Agusan
Oriental Misamis
Occidental Misamis
Lanao

Cities of:

Calbayog
Cebu
Dumaguete
Ozamiz
Ormoc

July 1 Provinces of:

Negros Occidental
Romblon
Iloilo
Capiz
Antique
Bohol

Cities of:

Bacolod
Iloilo

October 1 Provinces of:
Cotabato
Davao
Zamboanga del Norte
Zamboanga del Sur
Sulu
Palawan
Cities of:
Davao
Zamboanga

Very respectfully,

PAULINO J. GARCIA, *M.D.*
Secretary of Health

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 51

EXTENDING UP TO AND INCLUDING JULY 31, 1954,
THE PERIOD FOR THE SIXTH ANNUAL FUND
CAMPAIGN OF THE COMMUNITY CHEST OF
GREATER MANILA

WHEREAS, the period from June 1 to 15, 1954, was designated under Proclamation No. 26 dated May 11, 1954, for the Sixth Annual Fund Campaign of the Community Chest of Greater Manila; and

WHEREAS, it appears that said organization needs additional time to carry out its campaign successfully;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby extend up to and including July 31, 1954, the period for the Sixth Annual Fund Campaign of the Community Chest of Greater Manila.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 28th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG
RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 52

DECLARING AUGUST 13, 1954, PHILIPPINE-
AMERICAN DAY

WHEREAS, August 13, 1898, marked the official beginning of relations between the Philippines and the United States and the commencement of a happy and mutually profitable association between Filipinos and Americans;

WHEREAS, on the occasion of the 56th anniversary of that event, it is appropriate that the two peoples renew and further strengthen the bonds that bind them in view, particularly, of the prevailing critical world conditions that threaten their security and the democratic institutions that they have jointly developed and staunchly defended at the cost of their resources and blood;

WHEREAS, it is meet and proper that this historic event in the lives of the two nations, loyal partners in the active defense of freedom, be properly commemorated so that it may ever remain a source of inspiration in the noble effort to insure the success and permanence of the free and democratic enterprises in which they are engaged and which constitute their contribution to the peace of the world and the happiness of mankind; and

WHEREAS, it is desirable that the two peoples be afforded every opportunity to get together on an intimate basis and encouraged to find a common medium for the friendly, intelligent and unselfish appraisal of the problems as well as the advantages that arise from their present relationship, always in a spirit of cooperation and with due regard for each other's right, interests and aspirations;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, do hereby declare August 13, 1954, as Philippine-American Day. I call upon all our people and all Americans residing within Philippine territory to observe this date with appropriate ceremonies designed to promote mutual understanding and helpfulness and to enhance the practical significance of the intimate association existing between Filipinos and Americans and between the Government of the Republic of the Philippines and the Government of the Republic of the United States of America. I especially call on all civic, business, religious and service organizations and schools, both public and private, to devote this date to exercises calculated to advance knowledge

and wider appreciation of the value of Philippine-American relationship and of the benefits derived from it.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 29th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 53

RESERVING FOR ADDITIONAL STOCKYARD AND
SLAUGHTERHOUSE SITE PURPOSES A CERTAIN
PARCEL OF THE PUBLIC DOMAIN SITUATED IN
THE CITY OF MANILA

Upon the recommendation of the Secretary of Agriculture and Natural Resources, and pursuant to the provisions of section 83 of Commonwealth Act No. 141, as amended, I hereby withdraw from sale or settlement and reserve for additional stockyard and slaughterhouse site purposes under the administration of the City of Manila, subject to private rights, if any there be, a certain parcel of the public domain situated in the City of Manila and more particularly described as follows, to wit:

A parcel of land (portion of the Tondo Foreshore Land, as shown on the attached sketch, situated in the District of Tondo. Bounded on the N. by a road; on the NE. by a road behind the Government Tenement Houses; on the SE. by a property of the National Government; and on the SW. and NW. by a proposed road. Beginning at a point marked 1 on the attached sketch, being S. 23° 00' E., 70.00 meters to point 2; thence S. 63° 15' W., 160.00 meters to point 3; thence N. 33° 50' W., 220.00 meters to point 4; thence N. 57° 15' E., 35.00 meters to point 5; thence S. 30° 15' E., 30.00 meters to point 6; thence S. 72° 02' E., 177.00 meters to the point of beginning; containing an area of 27,650 square meters, more or less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 3rd day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 54

EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 610, DATED AUGUST 29, 1940, AND RESERVING FOR CERTAIN SPECIFIED PUBLIC PURPOSES CERTAIN PARCELS OF THE LAND EMBRACED THEREIN, SITUATED IN THE MUNICIPALITY OF ROXAS, PROVINCE OF ISABELA, ISLAND OF LUZON

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provision of section 83 of Commonwealth Act No. 141, as amended, I hereby exclude from the operation of Proclamation No. 610, dated August 29, 1940, and reserve for certain specified public purposes indicated hereunder under the administration of the Municipality of Roxas, subject to private rights, if any there be, the following parcels of land embraced therein, to wit:

Lot Nos.		Location	Purpose	Area in sq. m.
3201, Pls-15	Muños,	Roxas, Isabela	School site	13,002
3200, Pls-15	Muños,	Roxas, Isabela	Plaza site	12,958
2987, Pls-15	Muños,	Roxas, Isabela	Market site	6,017
1476, Pls-62	Callang,	Roxas, Isabela	Playground site	20,055
1343, Pls-62	Callang,	Roxas, Isabela	School site	24,067
1477, Pls-62	Callang,	Roxas, Isabela	Municipal Gov- ernment site	8,967
1342, Pls-62	Callang,	Roxas, Isabela	Park site	10,807
2998, Pls-62	Callang,	Roxas, Isabela	Cemetery site	19,628
1631, Pls-62	Callang,	Roxas, Isabela	Market site	10,803
7225, Pls-62	Eden,	Roxas, Isabela	School site	21,018
7257, Pls-62	Eden,	Roxas, Isabela	Park site	9,972
7224, Pls-62	Eden,	Roxas, Isabela	Municipal Gov- ernment site	9,460
7108, Pls-62	Sandiat,	Roxas, Isabela	School site	20,900
7106, Pls-62	Sandiat,	Roxas, Isabela	Park site	9,000

7107, Pls-62	Sandiat,	Roxas, Isabela	Municipal Gov- ernment site	9,788
7089, Pls-62	Sandiat,	Roxas, Isabela	Playground site	21,014
7040, Pls-62	Sandiat,	Roxas, Isabela	Market site	13,459
5850, Pls-62	Vira,	Roxas, Isabela	Cemetery site	40,088
5518, Pls-62	Mararique,	Roxas, Isabela	School site	20,992
6760, Pls-62	Mararique,	Roxas, Isabela	Park site	9,000
6759, Pls-62	Mararique,	Roxas, Isabela	Municipal Gov- ernment site	10,498
6794, Pls-62	Mararique,	Roxas, Isabela	Playground site	21,085
848, Pls-62	San Antonio,	Roxas, Isabela	School site	20,985
873, Pls-62	San Antonio,	Roxas, Isabela	Park site	9,828
874, Pls-62	San Antonio,	Roxas, Isabela	Municipal Gov- ernment site	9,761
875, Pls-62	San Antonio,	Roxas, Isabela	Playground site	20,889
951, Pls-62	San Antonio,	Roxas, Isabela	Market site	13,509

In witness whereof, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 5th day of August, in the year of Our Lord nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 55

EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 294, DATED JULY 20, 1938, A PARCEL OF THE PUBLIC DOMAIN SITUATED IN CERVANTES, ILOCOS SUR, ISLAND OF LUZON, AND TO ESTABLISH THE SAME AS BESSANG PASS NATIONAL SHRINE

Upon the recommendation of the Secretary of Agriculture and Natural Resources, as Chairman of the Commission on Parks and Wildlife, and pursuant to the provisions of section 1 of Act Numbered Thirty-nine hundred and fifteen, as amended, I, Ramon Magsaysay, President of the Philippines, do hereby exclude from the operation of Proclamation No. 294, series of 1938, certain portion of the Tirad Pass National Park and establish

the same as Bessang Pass National Shrine, under the control and administration of the Commission on Parks and Wildlife, subject to private rights, if any there be, situated in the municipality of Cervantes, Province of Ilocos Sur, Island of Luzon, which parcel of land is more particularly described as follows:

"Beginning from a point marked 1 on the plan situated at barrio Naiba of the municipality of Cervantes, Province of Ilocos Sur, thence north 67° 30' east, 3,040 meters to point 2; south, 20° 30' West, 3,420 meters to point 3; north, 39° 00' west, 2,600 meters to point 1, point of beginning, containing an area of 3,040,000 square meters, more or less.

The above described parcel of land is subject to future delimitation and survey.

In witness whereof, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 10th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 56

DECLARING THURSDAY, AUGUST 19, 1954, AS A
SPECIAL PUBLIC HOLIDAY

WHEREAS, the seventy-sixth anniversary of the birth of the late President Manuel L. Quezon falls on Thursday, August 19, 1954;

WHEREAS, his life having been dedicated to the service of his country and people, it is but fit and proper that we commemorate his birthday; and

WHEREAS, the nineteenth day of August of every year is also Citizenship Day under Proclamation No. 331 dated August 4, 1952;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by section 30 of the Revised Administrative Code, do hereby

declare Thursday, August 19, 1954, as a special public holiday. I enjoin the observance of the day with appropriate ceremonies which would inculcate upon our people, especially the youth, the rights and duties of good citizenship to the end that they will consecrate themselves to the ideals and traditions of our Republic.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 14th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 57

RESERVING FOR SCHOOL SITE PURPOSES CERTAIN PARCELS OF THE PUBLIC DOMAIN SITUATED IN THE BARRIO OF BAMBANG, MUNICIPALITY OF PASIG, PROVINCE OF RIZAL, ISLAND OF LUZON

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provision of section 83 of Commonwealth Act No. 141, as amended, I, Ramon Magsaysay, President of the Philippines, do hereby withdraw from sale or settlement and reserve for school site purposes under the administration of the Director of Public Schools, subject to private rights, if any there be, certain parcels of the public domain situated in the Barrio of Bambang, Municipality of Pasig, Province of Rizal, Island of Luzon, and more particularly described, to wit:

Lot No. 1.—Beginning at a point marked 1 on plan, being S. 8° 44' W., 169.53 meters from B.L.L.M. No. 2 Mp of Pasig, Rizal, thence S. 45° 41' W., 20.00 meters to point 2; thence S. 47° 07' W., 25.52 meters to point 3; thence N. 21° 54' W., 9.46 meters to point 4; thence N. 47° 40' E., 27.12 meters to point 5; thence N. 18° 52' W., 21.85 meters to point 6; thence N. 51° 53' W.,

31.40 meters to point 7; thence N. 72° 57' W., 38.53 meters to point 8; thence N. 31° 38' E., 17.35 meters to point 9; thence S. 82° 42' E., 16.84 meters to point 10; thence S. 58° 05' E., 37.49 meters to point 11; thence S. 58° 46' E., 6.00 meters to point 12; thence S. 36° 34' E., 24.78 meters to the point of beginning. Bounded on the N., by the property of Lucio Javillonar; on the NE., by properties of Ramona Pozon and Petronila Bartolome, Eduardo Legaspi and Susana Santos; on the SE., by properties of Petronilo Natividad et al and Public Land; on the S., by lot No. 2 of plan Psu-130762; on the SW., by property of Domingo de la Cruz (lot No. 4, Psu-3354) and lot No. 2 of plan Psu-130762; on the W., by lot No. 3 of plan Psu-130762; and on the NW., by lot No. 2 of plan Psu-130762. Containing an area of 1,989 square meters, more or less.

Lot No. 3.—Beginning at a point marked 1 on plan, being S. 44° 46' W., 157.79 meters from B.L.L.M. No. 2 Mp of Pasig, Rizal, thence S. 31° 38' W., 17.35 meters to point 2; thence N. 79° 19' W., 11.27 meters to point 3; thence N. 80° 03' W., 8.56 meters to point 4; thence N. 22° 04' E., 13.84 meters to point 5; thence S. 86° 01' E., 23.46 meters to the point of beginning. Bounded on the N., by property of Francisco Lara et al; on the E., by lot No. 1 of plan Psu-130762; on the S., by lot No. 2 of plan Psu-130762 and on the W., by public land. Containing an area of 314 square meters, more or less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 16th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 58

DECLARING THE EFFECTIVITY OF REPUBLIC ACT NO. 832, ENTITLED "AN ACT TO REGULATE THE SALE, EXCHANGE, OR DELIVERY OF HOME POUNDED, UNDERMILLED, MILLED OR POLISHED RICE AND PROVIDING PENALTY FOR VIOLATION THEREOF," IN ALL PROVINCES AND CITIES OF THE PHILIPPINES

WHEREAS, section 10 of Republic Act No. 832, entitled "An Act to regulate the sale, exchange, or delivery of Home Pounded, Undermilled, Milled or Polished Rice, and providing penalty for violation thereof," provides that said Act shall take effect upon the proclamation of the President of the Philippines when the Secretary of Health certifies that the province or provinces and cities concerned have already the facilities necessary to implement the law;

WHEREAS, the above-mentioned law is already effective in the provinces of Bataan, Tarlac and Pangasinan; and

WHEREAS, the Secretary of Health certifies that all provinces and cities in the Philippines wherein the law is not yet declared effective will have already had the necessary facilities to implement the law 30 days after the dates stated in said certificate;

Now, THEREFORE, I, Ramon Magsaysay, President of the Philippines, pursuant to the authority vested in me by section 10 of Republic Act No. 832, do hereby proclaim that said Act shall take effect in the provinces and cities enumerated below 30 days after the respective dates set opposite the names of the provinces and cities.

1955

January 1	City of Manila Province of Rizal Pasay City Quezon City Dagupan City
April 1	Provinces of: Nueva Ecija Nueva Vizcaya Bulacan Pampanga Mindoro Oriental Mindoro Occidental City of: Cabanatuan
July 1	Provinces of: Laguna Batangas Cavite Quezon Marinduque Zambales La Union Mountain Province Cities of: Baguio San Pablo Lipa Cavite Tagaytay

October 1 Provinces of:

Cagayan
Isabela
Ilocos Norte
Ilocos Sur
Abra
Batanes

1956

January 1 Provinces of:

Albay
Sorsogon
Camarines Norte
Camarines Sur
Catanduanes
Masbate

City of:

Naga

April 1 Provinces of:

Samar
Leyte
Cebu
Negros Oriental
Surigao
Bukidnon
Agusan
Oriental Misamis
Occidental Misamis
Lanao

April 1 Cities of:

Calbayog
Cebu
Dumaguete
Ozamiz
Ormoc

July 1 Provinces of:

Negros Occidental
Romblon
Iloilo
Capiz
Antique
Bohol

Cities of:

Bacolod
Iloilo

October 1 Provinces of:

Cotabato
Davao
Zamboanga del Norte
Zamboanga del Sur
Sulu
Palawan

Cities of:

Davao
Zamboanga

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 24th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 49

CREATING A COMMITTEE TO TAKE CHARGE OF
THE OBSERVANCE OF PHILIPPINE-AMERICAN
DAY ON AUGUST 13, 1954

Pursuant to the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby create a committee to take charge of, and provide the means for, the appropriate observance of Philippine-American Day on August 13, 1954, as declared in Proclamation No. 52 dated July 29, 1954. The committee shall be composed of the following:

The President, Chamber of Commerce of the Philippines	Co-Chairman
The President, American Chamber of Commerce	Co-Chairman
The President, Philippine Association	Member
The President, Philippine Association of Colleges and Universities	Member
The President, USAFFE Veterans	Member
The President, American Association of the Philippines	Member
The Commander, Philippine Department, American Legion	Member
The President, American Historical Association	Member
The President, Philippine Tourist and Travel Association	Coordinator

The committee herein created is authorized to appoint subcommittees and to call on any department, bureau, office, agency or instrumentality of the Government as well as on public in general for such assistance and cooperation may need in the discharge of its duties.

Done in the City of Manila, this 3rd day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG
RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES
ADMINISTRATIVE ORDER No. 50

AMENDING ADMINISTRATIVE ORDER NO. 19 DATED MARCH 24, 1954, CREATING A COMMITTEE TO MAKE A STUDY OF THE ORGANIZATION, FUNCTIONS AND DUTIES OF THE SUGAR QUOTA ADMINISTRATION AND CONDUCT AN INVESTIGATION OF ITS PERSONNEL

Administrative Order No. 19 dated March 24, 1954, in so far as the composition of the investigating committee created thereby is concerned, is hereby amended as follows:

Solicitor Ramon Avanceña	Chairman
Atty. Eufemio Musa	Member
Dr. Jose J. Mirasol	Member

Done in the City of Manila, this 4th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG
RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES
ADMINISTRATIVE ORDER No. 51

SUSPENDING FROM OFFICE HONORABLE GEDEON G. QUIJANO, PROVINCIAL GOVERNOR OF MISAMIS OCCIDENTAL, FOR ACTS OF TERRORISM AND ABUSE OF AUTHORITY

This is an administrative case against Honorable Gedeon G. Quijano, provincial governor of Misamis Occidental, who is charged with wilful neglect of duty, abuse of authority and terrorism in a complaint filed by Atty. Casiano U. Laput dated January 8, 1954; and abuse of authority, grave threats and manhandling, in a separate complaint dated December 29, 1953, filed by Mr. Miguel P. Olivar.

On the charge of terrorism, the Special Investigator of this Office, Atty. Vicente O. Frias, made the following observations: "On the whole, there is no doubt that terrorism existed in the Province of Misamis Occidental in the 1949 elections. Even the witnesses of the respondent governor like Magdaleno Salinas tersely narrated the horrible atrocities and terroristic acts of the armed terrorists: the OCLUS (Ozamiz City Labor Union). Said he: 'My house, four window glasses were broken, Andres Sarsaba was hurt, Mariano Paculaba in Balatacan was injured, house of Jovito Mirafuentes was stoned and Francisco Morante was hurt by the OCLUS inside the polling place on the election day and that as a consequence of these atrocities Alfredo Kaamiño, Julio Mendez, Dr. Agustin Pagosara, Andres Sarsaba, Timoteo Rivera evacuated Tangub.' It would not be amiss to state here that this respondent's witness affirmed the testimony of witness Alfredo Kaamiño that he was terrorized to evacuate Tangub. Witness Pantaleon Cardenas, in similar vein, recalled the terroristic activities in said elections."

The respondent admitted the existence of terrorism in his province in said elections, but placed the blame on ex-Representative Villarin who was then a candidate for Congress. However, the witnesses for the complainant positively averred that they saw and heard the respondent intimidate and threaten with liquidation the leaders of the Nacionalista Party in said province. The simple denial by the respondent and the negative averments of his witnesses cannot and should not prevail over convincing and positive proof. I therefore find the respondent guilty of the charge of terrorism.

As regards the charge of wilful neglect of duty in that he failed to investigate the administrative complaint against Mayor Cosme Cabibil of Plaridel, Misamis Occidental, the records reveal that the respondent caused the investigation of Mayor Cabibil in compliance with the directive of this Office. He is therefore exonerated from this charge.

The charge that respondent took undue advantage of his position in promoting the application of his wife for a fishpond area in barrio Napiot, municipality of Baliangao, which was previously applied for by Mr. Patricio Atay has been, to some extent, substantiated. It has not been established, however, that respondent acted with abuse of his authority.

With respect to the charge of abuse of authority and taking undue advantage of his position as governor in threatening and intimidating with the employment of armed bodyguards and two PC soldiers, Mr. Marcelo Siaotong and his laborers who were clearing and constructing a fishpond in barrio Danao, municipality of Plaridel, Misamis Occidental, thereby causing them to abandon their work, the evidence reveals that Mr. Siaotong applied for the fishpond area in question as early as 1943, following it up with another application as early as 1952. The respondent also applied for the same area later in 1952, and employed coercive measures calculated to make Mr. Siaotong abandon his claim, by causing the filing of two criminal complaints against the latter and threatening his laborers with criminal prosecution, aside from the threats uttered by the two bodyguards and the PC soldiers to kill said laborers should they persist in their work. As a consequence of these threats, the laborers employed by Mr. Siaotong abandoned their work. The respondent is therefore guilty of this charge.

I also find him guilty of grave abuse of power and authority when he threatened and manhandled without sufficient justification, the person of Atty. Miguel P. Oliver, on the eve of the 1953 elections in barrio Balatacan, municipality of Tangub, Misamis Occidental.

Abuse of authority and terrorism tending to subvert the popular will are serious and grave offenses, whether committed by an appointive or elective official and the higher the authority, power, and position of the offending official, the greater the gravity of the offense. We are still in the infancy of self-government, and toleration of these kinds of offenses may have serious consequences in the future—more so as foreigners regard our country's government as a great experiment in democracy, and our continued existence as an independent country will largely depend on our ability to maintain a truly democratic government.

For the foregoing, I hereby order the suspension of Honorable Gedeon G. Quijano from the office of governor of Misamis Occidental for a period of six (6) months from notice hereof, with a warning that a repetition of any of the above offenses will be dealt with more severely.

Done at the City of Manila, this 5th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 52

AUTHORIZING THE CITIZEN'S SURETY AND INSURANCE CO., INC. TO BECOME A SURETY UPON OFFICIAL RECOGNIZANCES, STIPULATIONS, BONDS AND UNDERTAKINGS

WHEREAS, section 1 of Act No. 536, as amended by Act No. 2206, provides that whenever any recognizance, stipulation, bond or undertaking conditioned for the faithful performance of any duty or of any contract made with any public authority, national, provincial, municipal, or otherwise, or of any undertaking, or for the doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is, by the laws of the Philippines, or by the regulations or resolutions of any public authority therein, required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by any corporation organized under the laws of the Philippines, having power to guarantee the fidelity of persons holding positions of public or private trust and to execute and guarantee bonds or undertakings in judicial proceedings and to agree to the faithful performance of any contract or undertaking made with any public authority;

WHEREAS, said section further provides that no head of department, court, judge, officer, board, or body executive, legislative or judicial shall approve or accept any corporation as surety on any recognizance, stipulation, bond contract, or undertaking, unless such corporation has been authorized to do business in the Philippines in the manner provided by the provisions of said Act No. 536, as amended nor unless such corporation has, by contract with the Government of the Philippines, been authorized to become a surety upon official recognizances, stipulations, bonds, and undertakings; and

WHEREAS, THE CITIZENS' SURETY AND INSURANCE CO., INC. is a domestic corporation organized and existing under the laws of the Republic of the Philippines and fulfills the conditions prescribed by said Act No. 536, as amended.

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers in me vested by law, do hereby authorize THE CITIZENS' SURETY AND

INSURANCE Co., INC. to become a surety upon official recognizances, stipulations, bonds and undertakings in such manner and under such conditions as are provided by law, except that the total amount of immigration bonds that it may issue, shall not at any time exceed its admitted assets.

Done in the City of Manila, this 8th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 53

SUSPENDING FOREIGN AFFAIRS OFFICER AND
CONSUL JUSTINIANO D. QUIRINO

This is an administrative case against Mr. Justiniano D. Quirino, foreign affairs officer and consul in the Philippine Embassy at Washington, D. C., for improper conduct in connection with the unsuccessful attempt of the Aircraft Engine and Parts Corporation of New York City to sell airplane spare parts to the Philippine Air Force. The specific charges against him are:

"1. That Mr. Justiniano D. Quirino, for the personal gain and benefit of his uncle, Judge Antonio Quirino, and in consideration of past favors and free transportation tickets to Manila and back to Washington, received by him from Judge Quirino, hand-carried a letter-proposal of the Aircraft Engine and Parts Corporation in the United States to his said uncle, Judge Quirino, in Manila for the latter (in his capacity both as counsel of the Aircraft Engine and Parts Corporation and as the business associate of General James A. Mollison, retired, who was promoting the transaction in question for and in behalf of the Aircraft Engine and Parts Corporation) to submit to the Commanding General, Armed Forces of the Philippines, with the end in view of negotiating the sale to the Philippine Air Force of airplane engine spare parts valued at \$3,000,000;

"2. That Mr. Justiniano D. Quirino, without knowledge and consent of, or authority from, his superiors so to do, displayed more than ordinary interest in the promotion of the transaction in connection with the sale of airplane engine spare

parts to the Philippine Air Force and helped to induce the Army authorities to accept the offer of the Aircraft Engine and Parts Corporation; and

"3. That Mr. Justiniano D. Quirino, without the knowledge or consent of, nor the authority from, his superiors, performed functions relating to the procurement of military equipment which were not within the province of his office or position in the Embassy."

The case, original inquiry into which was started in 1949, was formally investigated by the Board of Foreign Service, which found the following facts duly established:

Sometime in February 1949 the respondent telephoned former Judge Antonio Quirino in Manila to help him go home to settle a mortgage on his property. At the time Judge Quirino was counsel in the Philippines of the Aircraft Engine and Parts Corporation. Towards the end of March 1949 Judge Quirino had another overseas telephone conversation with him in which the latter was informed that arrangements had been completed by the former for the respondent to go home, and was asked to carry some business literature, brochures and a letter from Judge Quirino's associates in Washington and New York. On the same day the respondent contacted by phone General James A. Mollison (retired) as requested by Judge Quirino. A day or two thereafter the respondent, General Mollison and Mr. Harvey H. Dwight, president of the Aircraft Engine and Spare Parts Corporation, had luncheon at a certain restaurant in Washington, D.C., during which the proposal contained in the letter to be carried by the respondent was discussed or mentioned. On March 30 or 31, 1949, General Mollison handed to the respondent the letter of proposal to the Chief of Staff dated March 30, 1949, saying, "Tell Tony to get work on it because time is of the essence." On April 2, 1949, the respondent left for Manila, General Mollison seeing him off at the airport. All the while the respondent was in Washington he never mentioned the said proposal either to the Military Attache's Office (Procurement Group) or to the Financial Attache.

After arriving in Manila, the respondent in the morning of April 10, 1949, delivered the letter of proposal to Judge Quirino and after breakfasting together they went to see General Mariano N. Castañeda, then chief of staff, AFP, to whom the proposal was explained. On April 18, 1949, upon instructions of Judge Quirino, the respondent went to see General Pelagio A. Cruz, chief of the Air Force, and told him all that he knew about the War Assets credit line. Speaking of his conversation with the respondent on this occasion, General Cruz in his letter of January 26, 1950, to the Acting Secretary of Foreign Affairs stated the following:

"Mr. J. Quirino came to my office on the morning of 18 April 1949 and discussed with me the matter mentioned on page 11 of the Committee report. I was particularly interested in

that feature of the proposal which would enable the Philippine Air Force to purchase aircraft engines and spare parts from the U.S. utilizing the credit facilities which could be extended to the Philippine Government by the War Assets Administration. *Mr. J. Quirino lengthily explained this matter to me and the members of my staff in the morning of 18 April 1949.*" (Italics supplied. Gen. Cruz' letter, p. 15, Quintero Report.)

When Judge Quirino went to see General Cruz in the afternoon of the same day, April 18, 1949, respondent went along with him. After the two had left, the controversial radiogram dated April 18, 1949, addressed to the Financial Attache in the name of General Castañeda was drafted. In this radiogram the PAF manifested its intention to purchase aircraft spare parts and tools from the authorized agent of the War Assets Administration through the use of the credit extended the Philippine Government by the War Assets Administration, pursuant to the letter received from the Aircraft Engine and Parts Corporation which was hand-carried by the respondent. According to General Cruz, the radiogram in question was drafted by his air staff as a result of the decision reached by him after consultation with Judge Quirino and after the respondent had told him and his staff that the Air Force had to immediately manifest at least an intention to purchase airplane spare parts. Elaborating on this point, General Cruz testified that were it not for the explanations made by the respondent about the time element of the proposal, the procedure for utilizing the credit line and the fact of addressing the cable to the Financial Attache, he would not have sent the aforesaid radiogram of April 18, 1949, to said official but would have merely written instead to the Military Attache.

The foregoing, according to the Board, shows the direct participation of the respondent in pushing, if vainly, the deal in question. It considers as potent aid in the determination of respondent's guilt or innocence the following circumstances: that the respondent is the nephew of Judge Quirino; that it was the latter who had paid his transportation fare to and from Manila; that up to the time of the submission of the Board's report his uncle had not made any demand to pay him back; and that although the respondent was able to finish within five or six days of his arrival his personal affairs, which was the main reason for his coming home, he deferred his return to his post in Washington for some weeks more.

In view of the foregoing, the Board finds the respondent guilty as charged in the light of existing law and regulations governing the conduct of government officials in general and foreign affairs officers in particular (Art. VII, Sec. 11 [2], Cnst.; Executive Order No. 18 (Sec. 29) dated September 16, 1946; Chap. IV, Foreign Service Regulations, Note 3, par. [a]. Of respondent's conduct, the

Board quotes with approval the following observation made by former Ambassador Joaquin M. Elizalde; "J. D. Quirino displayed more than ordinary interest in promoting the transaction of his uncle and the latter's associates. He made his uncle's cause his own cause."

After going over the record of the case, I agree with the above findings and observations. From nowhere is a higher and more scrupulous norm of personal conduct and official decorum required than from the personnel of the Foreign Service. Thus, the Foreign Service Regulations expressly declare:

"By the very nature of the Foreign Service, it is absolutely essential that the standards required of its personnel be most exacting. In addition to the high mental, physical and moral qualifications which our Officer or employee of the Foreign Service must have, it is also indispensable that there be nothing in his personal history or actions, during his tour of duty, that can cast a shadow on his reputation."

Wherefore, and in accordance with the recommendation of the Board of Foreign Service and the Acting Secretary of Foreign Affairs, Mr. Justiniano D. Quirino is hereby suspended from office for fifteen days without pay. He is further reprimanded and warned that repetition of similar acts will be dealt with more drastically.

Done in the City of Manila, this 10th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACANANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 54

AUTHORIZING THE COMMITTEE CREATED BY ADMINISTRATIVE ORDER NO. 76, DATED DECEMBER 16, 1948, AS AMENDED, TO APPROPRIATE FROM ITS COLLECTIONS SUCH AMOUNTS AS MAY BE NECESSARY FOR THE MAINTENANCE AND UPKEEP OF RIZAL HOME IN CALAMBA, THE DAPITAN PARK IN ZAMBOANGA, AND THE RESTORED PORTION OF THE BUILDING AT FORT SANTIAGO WHERE RIZAL SPENT HIS LAST DAY BEFORE HIS EXECUTION

By virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby authorize the Committee created by Administrative Order No. 76, dated December 16, 1948, as amended, to appropriate from its collections such amounts as may be necessary for the maintenance and upkeep of the restored Rizal Home in Laguna and Dapitan Park in Zamboanga, and the restored portion of the building at Fort Santiago where the Rizal Cell is located, from July 1, 1954, until the necessary appropriation shall be provided in the regular budget of the Department of Education. In addition to the payment of wages of the maintenance personnel, the Committee is also authorized to set aside the necessary amounts for its miscellaneous expenses during the same period.

Done in the City of Manila, this 10th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 55

CREATING A COMMITTEE TO INVESTIGATE THE
CLAIM OF THE NATIVES OF THE CITY OF BAGUIO FOR EXCLUSION OF THE AREAS CLAIMED BY THEM FROM THE BAGUIO TOWNSITE RESERVATION

A Committee is hereby created, composed of the following:

1. The Register of Deeds of the City of Baguio.... Chairman
2. One representative of the Bureau of Forestry.. Member
3. One representative of the Bureau of Lands Member

to study the claims of the native inhabitants of the City of Baguio for the segregation from the Baguio Townsite Reservation of the various parcels of land respectively occupied and claimed by them, with a view to determining whether it is in the public interest that their landholdings be segregated from the Baguio Townsite Re-

servation and opened to disposition under the Public Land Act.

The Committee is hereby granted all the powers of an investigating committee under sections 71 and 580 of the Revised Administrative Code, including the power to summon witnesses, administer oaths, and take testimony or evidence relevant to its task. It is also authorized to call upon any department, bureau, office, agency or instrumentality of the Government for such assistance or information as it may require in the performance of its functions, and for this purpose, it shall have access to, and the right to examine, any books, documents, papers or records thereof.

This Committee shall submit its report and recommendations within the shortest time possible.

Done in the City of Manila, this 16th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

REPUBLIC ACTS

Enacted during the First Congress of the Philippines
First Session

H. No. 379

[REPUBLIC ACT No. 1101]

AN ACT TO AMEND ITEM ONE HUNDRED AND THIRTY-SIX, GROUP II, TITLE F OF SECTION ONE OF REPUBLIC ACT NUMBERED NINE HUNDRED TWENTY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Item one hundred and thirty-six, group II, Title F, Section one of Republic Act Numbered Nine hundred and twenty is hereby amended to read as follows:

"136. Siaton River Control, Siaton, Negros
Oriental 40,000.00"

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 442

[REPUBLIC ACT No. 1102]

AN ACT FIXING THE BOUNDARY LINE BETWEEN THE MUNICIPALITY OF TAGUM AND THE MUNICIPALITIES OF DOÑA ALICIA AND COMPOSTELA, PROVINCE OF DAVAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The boundary line between the municipalities of Tagum and Doña Alicia shall be the Dumlan River from the Gulf of Davao to the source of said river and a straight line from the said source running northeastward to the concrete monument in the sitio of Libaylibay. The boundary line between the municipalities of Tagum and Compostela shall be the Hijo River.

SEC. 2. Executive Order No. 596, series of 1953, is amended accordingly.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 526

[REPUBLIC ACT No. 1103]

AN ACT CHANGING THE NAME OF THE SAN AGUSTIN ELEMENTARY SCHOOL IN THE MUNICIPALITY OF NAUJAN, PROVINCE OF ORIENTAL MINDORO, TO SANTIAGO GARONG MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the San Agustin Elementary School in the municipality of Naujan, Province of Oriental Mindoro, is changed to Santiago Garong Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 527

[REPUBLIC ACT No. 1104]

AN ACT CHANGING THE NAME OF THE PINAGSABANGAN ELEMENTARY SCHOOL IN THE MUNICIPALITY OF NAUJAN, PROVINCE OF ORIENTAL MINDORO, TO JUAN L. LUNA MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Pinagsabangan Elementary School in the municipality of Naujan, Province of Oriental Mindoro, is changed to Juan L. Luna Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 528

[REPUBLIC ACT No. 1105]

AN ACT CHANGING THE NAME OF THE BACO ELEMENTARY SCHOOL IN THE MUNICIPALITY OF BACO, PROVINCE OF ORIENTAL MINDORO, TO BENITO VILLAR MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Baco Elementary School in the municipality of Baco, Province of Oriental Mindoro, is changed to Benito Villar Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 529

[REPUBLIC ACT No. 1106]

AN ACT CHANGING THE NAME OF THE SAN JOSE NO. 1 ELEMENTARY SCHOOL IN THE MUNICIPALITY OF NAUJAN, PROVINCE OF ORIENTAL MINDORO, TO MARIANO GARCIA MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the San Jose No. 1 Elementary School in the Municipality of Naujan, Province of Oriental Mindoro, is changed to Mariano Garcia Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 401

[REPUBLIC ACT No. 1107]

AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF BUAYAN, IN THE PROVINCE OF COTABATO, TO GENERAL SANTOS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the municipality of Buayan, in the Province of Cotabato, is changed to General Santos.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 531

[REPUBLIC ACT No. 1108]

AN ACT TO CREATE THE BARRIOS OF LINGASAD, SILAWE, ISIS, AND LOBOC IN THE MUNICIPALITY OF POLANCO, PROVINCE OF ZAMBOANGA DEL NORTE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitios of Lingasad, Silawe, Isis, and Loboc in the municipality of Polanco, Province of Zamboanga del Norte, are hereby constituted into barrios in the said municipality, to be known as the barrios of Lingasad, Silawe, Isis, and Loboc, respectively.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 532

[REPUBLIC ACT No. 1109]

AN ACT TO CREATE THE BARRIO OF LIBUTON IN THE MUNICIPALITY OF MANUCAN, PROVINCE OF ZAMBOANGA DEL NORTE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Libuton in the municipality of Manucan, Province of Zamboanga del Norte, is hereby constituted into a barrio in the said municipality, to be known as the barrio of Libuton.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 625

[REPUBLIC ACT No. 1110]

AN ACT CHANGING THE NAME OF THE BARRIO OF BUKAW IN THE MUNICIPALITY OF IGBARAS, PROVINCE OF ILOILO, TO THAT OF ALAMEDA.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the barrio of Bukaw in the municipality of Igaras, Province of Iloilo, is hereby changed to that of Alameda.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 910

[REPUBLIC ACT No. 1111]

AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF DUMARAN, PROVINCE OF PALAWAN, TO ARACELI.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the municipality of Dumarán in the Province of Palawan is changed to Araceli.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1220

[REPUBLIC ACT No. 1112]

AN ACT GRANTING MARIANO NASSER A FRANCHISE FOR AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN THE MUNICIPALITY OF LUPON, PROVINCE OF DAVAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to Mariano Nasser, for a period of twenty-five years from the approval of this Act, the right, privilege, and authority to construct, maintain, and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat, and/or power for sale within the municipality of Lupon, Province of Davao.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. It is expressly provided that in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender his franchise and will turn over to the Government all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1491

[REPUBLIC ACT NO. 1113]

AN ACT GRANTING THE MUNICIPALITY OF BALOI,
PROVINCE OF LANAOS, A FRANCHISE FOR AN
ELECTRIC LIGHT, HEAT AND POWER SYSTEM.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to the municipality of Baloi, Province of Lanao, for a period of twenty-five years from the approval of this Act, the right, privilege, and authority to construct, maintain, and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat, and/or power for sale within the municipality of Baloi, Province of Lanao.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. It is expressly provided that, in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender its franchise and will turn over to the Government all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1843

[REPUBLIC ACT NO. 1114]

AN ACT GRANTING SALVADOR T. SINGUILLO A
FRANCHISE FOR AN ELECTRIC LIGHT, HEAT
AND POWER SYSTEM IN THE MUNICIPALITY
OF SINDANGAN, PROVINCE OF ZAMBOANGA
DEL NORTE.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to Salvador T. Singuillo, for a period of twenty-five years from the approval of this Act, the right, privilege, and authority to construct, maintain, and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat, and/or power for sale within the municipality of Sindangan, Province of Zamboanga del Norte.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric

heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. It is expressly provided that in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender his franchise and will turn over to the Government all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2015

[REPUBLIC ACT NO. 1115]

AN ACT GRANTING LEOPOLDO DE LA CRUZ A FRANCHISE FOR AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN THE MUNICIPALITY OF PONTEVEDRA, PROVINCE OF CAPIZ.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to Leopoldo de la Cruz, for a period of twenty-five years from the approval of this Act, the right, privilege, and authority to construct, maintain, and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat, and/or power for sale within the municipality of Pontevedra, Province of Capiz.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. It is expressly provided that, in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender his franchise and will turn over to the Government all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2054

[REPUBLIC ACT NO. 1116]

AN ACT TO CHANGE THE NAME OF THE MUNICIPALITY OF LIMBUHAN, PROVINCE OF MASBATE TO PIO V. CORPUS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In recognition of the eminent and patriotic services rendered by the late Pio V. Corpus, the name of

the municipality of Limbuan, Province of Masbate, is changed to Pio V. Corpus.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2087

[REPUBLIC ACT No. 1117]

AN ACT CREATING THE BARRIO OF BUDIONG, MUNICIPALITY OF ODIONGAN, PROVINCE OF ROMBLON.

of the Philippines in Congress assembled:

SECTION 1. The sitio of Budiong of barrio Canduyong, municipality of Odiongan, Province of Romblon, is separated from said barrio and constituted into a new barrio to be known as barrio Budiong. The new barrio shall comprise that territory bounded on the North by the Odiongan Bay; on the East by the Bangon River; on the South by the National Road to Ferrol; and on the West by the Budiong Hill starting from the Siniba-an Point on Odiongan Bay extending to the National Road to Ferrol following the ridge of the said hill.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2102

[REPUBLIC ACT No. 1118]

AN ACT APPROVING ANY ASSIGNMENT, SALE AND TRANSFER OF THE FRANCHISE GRANTED TO JOSE CATOLICO BY REPUBLIC ACT NUMBERED FOUR HUNDRED AND SIXTY-SIX IN FAVOR OF "JOSE CATOLICO ELECTRIC LIGHT AND POWER CO., INC."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the provisions of Republic Act Numbered Four hundred and sixty-six, entitled "An Act granting Jose Catolico a franchise for an electric light, heat and power system in the municipality of Buayan, Province of Cotabato," approval is hereby given to any assignment, sale and transfer of the franchise granted to Jose Catolico under the said Act, together with all the property and equipment acquired thereunder, in favor of "Jose Catolico Electric Light and Power Plant Co., Inc."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2108

[REPUBLIC ACT No. 1119]

AN ACT GRANTING THE MARTHA ENTERPRISES, INC. TEMPORARY PERMIT TO ESTABLISH, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT RADIOTELEPHONE STATIONS FOR THE TRANSMISSION AND RECEPTION OF WIRELESS MESSAGES TO AND FROM SAID STATIONS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Martha Enterprises, Inc., its successors or assigns, is hereby granted a temporary permit to establish, maintain and operate private fixed point-to-point radiotelephone stations in the City of Zamboanga and in other parts of the Philippines where it operates its lumber business, subject to the approval of the Secretary of Public Works and Communications, for the transmission and reception of wireless messages to and from said stations, including its tugboats.

SEC. 2. The President of the Philippines shall have the power and authority to permit the construction, maintenance, and operation of said private fixed point-to-point radiotelephone stations on any land of the public domain upon such terms as he may prescribe.

SEC. 3. The temporary permit granted under this Act shall continue to be in force while the Government has not established similar service at places hereinabove stated, and subject to the condition that the grantee, its successors or assigns, shall start operation under said temporary permit within one and a half years from the approval of this Act.

SEC. 4. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines, it being understood that the temporary permit granted by virtue of this Act merely secures the right of the grantee to establish, maintain and operate private fixed point-to-point radiotelephone stations at the places hereinabove stated for no other purpose than to promote, protect, and subserve the trade and business interest of the grantee as a lumber company.

SEC. 5. The actual operation of said private fixed point-to-point radiotelephone stations shall not commence until after the Secretary of Public Works and Communications shall have allotted to the grantee the frequencies and wave lengths to be used thereunder.

SEC. 6. The grantee, its successors or assigns, shall so construct and operate such stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 7. The grantee, its successors or assigns, shall hold the national, provincial, city and municipal government of the Republic of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radiotelephone stations.

SEC. 8. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or which may hereafter be enacted.

SEC. 9. A special right is hereby reserved to the President of the Philippines in time of war, rebellion, public peril, calamity, disaster or disturbance of peace or order to cause the closing of the grantee's radiotelephone stations or to authorize the temporary use and operation thereof by any department of the Government upon just compensation.

SEC. 10. The temporary permit granted under this Act shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 11. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2162

[REPUBLIC ACT NO. 1120]

AN ACT GRANTING TO PHILIPPINE PACKING CORPORATION A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT, PRIVATE BASE, AND PRIVATE COASTAL RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted to Philippine Packing Corporation, its successors or assigns, a temporary permit to construct, establish, maintain and operate in the Philippines, at Manila, Bugo and Phillips, Bukidnon, and at such other places as the company may select and the Secretary of Public Works and Communications may approve, private fixed point-to-point, private base, and private coastal radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with a radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. The President of the Philippines shall have the power and authority to permit the location of said private fixed point-to-point, private base, and private coastal radio stations, or any of them, on lands of the public domain upon such terms as he may prescribe.

SEC. 3. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the construction of at least two stations be begun within two years from the date of approval of this Act, and all of them be completed within six years from said date.

SEC. 4. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, maintain and operate private fixed point-to-point, private base, and private coastal radio stations in such places within the Philippines as the interest of the company and of its trade and business may justify.

SEC. 5. This temporary permit shall not take effect until the Secretary of Public Works and Communications shall have allotted to the grantee the frequencies and wave lengths to be used by the stations.

SEC. 6. No fees shall be charged by the grantee, as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 7. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 8. The grantee, its successors or assigns, shall hold the national, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 9. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted.

SEC. 10. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril, calamity or disaster to cause the closing of the grantee's radio stations or to authorize the temporary use or possession thereof by any department of the Government upon just compensation.

SEC. 11. This temporary permit shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2402

[REPUBLIC ACT No. 1121]

AN ACT GRANTING THE PHILIPPINE STANDARD PRODUCTS CO., INC., A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A RADIO BROADCASTING STATION IN MANILA, PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the provisions of the Constitution, as well as of Act Numbered Three thousand eight hundred forty-six, entitled An Act providing for the regulation of radio stations and radio communications in the Philippine Islands, and for other purposes; Act Numbered Three thousand nine hundred ninety-seven, known as the Radio Broadcasting Law; Commonwealth Act Numbered One hundred forty-six, known as the Public Service Act, and their amendments, and other applicable laws, there is hereby granted to the Philippine Standard Products Co., Inc., hereinafter referred to as the "grantee" a franchise to construct, maintain and operate in Manila, Philippines and in such other places as may be selected by the grantee, subject to the approval of the Secretary of Public Works and Communications, a radio broadcasting station or stations: *Provided*, That the holder of the fran-

chise herein granted shall start the operation thereof within two years from the approval of said franchise. Failure to comply with this requirement shall *ipso facto* cancel and void the franchise.

SEC. 2. This franchise shall continue for a period of twenty-five years, renewable upon expiration.

SEC. 3. (a) This franchise shall not take effect nor shall any powers thereunder be exercised by the grantee until the Secretary of Public Works and Communications shall have allotted to the grantee the frequencies and wave lengths to be used thereunder and determined the stations to and from which each such frequency and wave length may be used, and issued to the grantee a license for such use.

(b) The Secretary of Public Works and Communications, on reasonable notice to the grantee, may at any time change, or cancel, or modify, in whole or in part, any or all of the allotments of frequencies or wave lengths to be used. He may take such action: (1) whenever in his judgment such frequencies and wave lengths have been used, or there is danger that they will be used by the grantee to impair electrical communication, or stifle competition, or to obtain a monopoly in electrical communication, or to secure unreasonable rates for such communication, or otherwise to violate the laws or public policy of the Republic of the Philippines; (2) whenever in his judgment the public interests of the Philippines require that such frequencies or wave lengths should be used for other purposes than those of the grantee, either by the Government of the Philippines or by other individuals or corporations licensed by it; (3) whenever in his judgment for any reason the public interests of the Philippines so require.

(c) The Secretary of Public Works and Communications is authorized to appoint, employ or make use of such boards, commissions, or agents as in his discretion he may select, to investigate, and determine the facts upon which he may act as aforesaid, and such boards, commissions, or agents shall have the right by compulsory process of *sub-pœna*, to summon witnesses, administer oaths, and take evidence.

SEC. 4. The stations of the grantee shall be so constructed and operated as to effect a minimum of interference with the wave lengths selected with a view to avoiding interference with existing stations and to permit the expansion of the grantee's services.

SEC. 5. A special right is reserved to the Government of the Republic of the Philippines, in time of war, insurrection, or public disorder to take over and operate the said stations upon order and discretion of the President of the Philippines.

SEC. 6. The right is hereby reserved to the Government of the Philippines, through the Public Service Commission, or such other office as may be thereunto duly authorized, to fix the maximum and minimum rates to be charged by the grantee.

SEC. 7. (a) The grantee shall be liable to pay the same taxes on its real estate, buildings, and personal property, exclusive of the temporary permit, as other persons or

corporations are now or hereafter may be required by law to pay.

(b) The grantee shall further be liable to pay all other taxes under the National Internal Revenue Code by reason of this franchise.

SEC. 8. The grantee shall hold the National, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee.

SEC. 9. No private property shall be taken for any purpose by the grantee without proper condemnation proceedings and just compensation paid or tendered therefore, and any authority to take and occupy land contained herein, shall not apply to the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which this franchise is granted.

SEC. 10. It shall be unlawful for the grantee to use, employ, or contract, for the labor of persons held in involuntary servitude.

SEC. 11. The franchise hereby granted shall be subject to amendment, alteration, or repeal by the Congress of the Philippines, and the right to use or occupy public property and places hereby granted shall revert to the respective governments, upon the termination of this temporary permit, by repeal or by forfeiture, or expiration in due course.

SEC. 12. As a condition of the granting of this franchise the grantee shall execute a bond in favor of the Government of the Philippines, in the sum of ten thousand pesos in form and with securities satisfactory to the Secretary of Public Works and Communications, conditioned upon the faithful performance of the grantee's obligations hereunder during the first three years of the life of this franchise. If, after three years from the date of acceptance of this franchise, the grantee shall have fulfilled the same, the bond aforesaid shall be cancelled by the Secretary of Public Works and Communications.

SEC. 13. Acceptance of this franchise shall be given in writing within six months after approval of this Act. When so accepted by the grantee and upon the approval of the bond aforesaid by the Secretary of Public Works and Communications the grantee shall be empowered to exercise the privileges granted thereby.

SEC. 14. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this temporary permit nor the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this franchise may be sold, transferred, or assigned, shall be subject to the corporation laws of the Philippines now existing or which may hereafter be enacted, and any person, firm, company, corporation or other commercial or legal entity to which this franchise is sold, transferred, or assigned shall be subject to all the conditions, terms, restrictions, and limitations of this franchise

as fully and completely and to the same extent as if the franchise has been originally granted to the said person, firm, company, corporation or other commercial or legal entity.

SEC. 15. This franchise shall not be interpreted to mean an exclusive grant of the privileges herein provided for.

SEC. 16. The grantee shall not require any previous censorship of any speech, play or other matter to be broadcast from its stations; but if any speech, play or other matter should constitute a violation of the law or infringement of a private right, the grantee shall be free from any liability, civil or criminal, for such speech, play or other matter: *Provided*, That the grantee, during any broadcast shall cut off from the air the speech, play or other matter being broadcast if the tendency thereof is to propose and/or incite treason, rebellion or sedition, or the language used therein or the theme thereof is indecent or immoral, and willful failure to do so shall constitute a valid cause for the cancellation of this permit.

SEC. 17. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 18

[REPUBLIC ACT No. 1122]

AN ACT TO CREATE THE BARRIO OF DON JUAN
IN THE MUNICIPALITY OF CUENCA, PROVINCE
OF BATANGAS.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. The sitios of Luñgos ng Parang, Kulit, Lumampao, Pisa, Napapanayan and Lagundian, in the municipality of Cuenca, Province of Batangas, are constituted into a barrio in the said municipality to be known as the barrio of Don Juan.

The boundaries of the said barrio shall be as follows:

"Starting at the boundary of municipalities of Alitagtag and Cuenca, from the shore of Lake Taal, thence following the aforestated boundary line between the said municipalities upward, until the point or boundary line between the sitio of Kulit and barrio of San Felipe, Cuenca, thence going Northward to the uppermost central part of Makatmon, thence including the entire portion of Maculot mountain facing Lake Taal to the boundary line between the sitios of Lagundian and Lagnas going downward following the aforestated boundary line to the shore of Lake Taal."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

S. No. 29

[REPUBLIC ACT No. 1123]

AN ACT TO FURTHER AMEND PARAGRAPH THREE,
SUBSECTION (a) OF SECTION ELEVEN OF COM-
MONWEALTH ACT NUMBERED ONE HUNDRED
EIGHTY-SIX AS AMENDED, AND THE SECOND
PARAGRAPH OF SECTION TWENTY-SIX OF RE-
PUBLIC ACT NUMBERED SIX HUNDRED AND
SIXTY, AS AMENDED.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Paragraph three, subsection (a) of section eleven of Commonwealth Act Numbered One hundred eighty-six, as amended by Republic Act Numbered Six hundred sixty, and further amended by Republic Act Numbered Seven hundred twenty-eight, is hereby further amended to read as follows:

“(3) For those who are at least sixty-five years of age, lump-sum payment of present value of annuity for first five years and annuity thereafter to be paid monthly; and for those who are at least sixty years of age and have rendered thirty-three years of service or more, the present value of the annuity for the first five years to be paid in five equal annual installments, each payable at the beginning of each year, and the annuity thereafter to be paid monthly: *Provided*, That said lump sum payment or annual installments of annuity may be made to a retired employee only if the premiums paid by and for him are sufficient to cover said payment or payments: *Provided, further*, That it shall be compulsory for an employer to pay on the date of retirement, in preference to all other obligations, except salaries and wages of its employees, its share of at least the premiums required to permit an employee to enjoy this option.”

SEC. 2. The second paragraph of section twenty-six of Republic Act Numbered Six hundred sixty, as amended by Republic Act Numbered Seven hundred twenty-eight, is hereby further amended to read as follows:

“Notwithstanding any provisions of this Act to the contrary, any member who was separated from the service as a consequence of the reorganization provided for in Republic Act Numbered Four hundred and twenty-two or as a consequence of the elimination of his position and salary in Republic Act Numbered Five hundred sixty-three, known as the General Appropriation Law for the fiscal year nineteen hundred and fifty-one, or by operation of any future Reorganization Act, may be retired under the provisions of this Act if qualified: *Provided*, That the period during which such an officer or employee had been out of the service as a result of said reorganization, from the date of his separation to the date of his re-instatement or reappointment on or before December thirty-one, nineteen hundred and fifty-one, shall be considered as leave of absence: *Provided, further*, That any gratuity or retirement benefit already received by him shall be refunded to the System: *Provided, furthermore*, That contributions corresponding to his last five years of service shall be paid as provided in section twelve of Commonwealth Act Numbered One hundred and eighty-six, as amended. This provision shall also apply to any member of the judiciary who, prior to the approval of this Act, was separated from the service after reaching seventy years of age and rendering at least thirty years of service and who is not entitled to retirement benefit under any law.”

SEC. 3. This Act shall take effect upon its approval.

Approved, June 16, 1954.

S. No. 174

[REPUBLIC ACT No. 1124]

AN ACT CREATING A BOARD OF NATIONAL EDUCATION CHARGED WITH THE DUTY OF FORMULATING GENERAL EDUCATIONAL POLICIES AND DIRECTING THE EDUCATIONAL INTERESTS OF THE NATION.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby created a Board of National Education which shall formulate, implement and enforce general educational objectives and policies, coordinate the offerings, activities and functions of all educational institutions in the country with a view to accomplishing an integrated, nationalistic and democracy-inspired educational system in the Philippines.

SEC. 2. The Board of National Education shall be composed of fifteen members as follows:

- (a) The Secretary of Education
- (b) The Chairman of the Committee on Education in the Senate
- (c) The Chairman of the Committee on Education in the House of Representatives
- (d) The Director of Public Schools
- (e) The Director of Private Schools
- (f) The President of the University of the Philippines
- (g) The Chairman of the United Nations Educational, Scientific, and Cultural Organization's National Commission of the Philippines
- (h) Eight other members who shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments, one from each of the following groups or organizations:

- 1. Labor
- 2. Industry or Management
- 3. Agriculture
- 4. National Catholic Educational Association
- 5. Mohammedan or other cultural minority
- 6. Philippine Association of Christian Schools
- 7. Philippine Association of Colleges and Universities
- 8. Teaching profession

These eight members shall serve for a period of four years: *Provided, That*, in the first appointment, two members shall be appointed for one year, two for two years, two for three years, and two for four years.

SEC. 3. The Secretary of Education or, in his absence, the Undersecretary of Education shall act as Chairman of the Board. The Chairman and members of the Board shall serve in an honorary capacity and shall receive no compensation or remuneration for their services as such, except that they shall be paid travelling expenses to and from meetings of the Board that they attend.

SEC. 4. The Board shall have the following powers and functions:

(a) To formulate the objectives and basic policies of education for children and adults in conformity with the philosophy and mandates of the Constitution.

(b) To coordinate the objectives, functions and activities of different types and kinds of educational institutions in the Philippines.

(c) To set up general goals of accomplishments for the entire Philippine school system, the attainment of which shall be the objective of the policies and functions of all educational institutions in the country.

SEC. 5. It shall be the exclusive agency of the Government for the implementation of educational policies and the direction of the educational interests of the nation, subject only to the constitutional authority of the President of the Republic over executive departments, bureaus and offices.

SEC. 6. The Chairman of the Board shall have the following duties and functions:

(a) To call meetings of the Board and preside over them.

(b) To execute or implement decisions of the Board, and to see to it that the educational policies approved by the Board are duly complied with and followed by all schools.

(c) To perform all duties heretofore prescribed by law for the highest education officials of the land that are not inconsistent with the provisions of this Act.

(d) To perform such other duties as may be assigned by the Board.

SEC. 7. The Board shall appoint its Secretary and may request for the detail in its office of such personnel as it may need from the Department of Education or any Bureau or Office under it.

SEC. 8. All acts, executive orders, administrative circulars or regulations inconsistent with the provisions of this Act are hereby repealed.

SEC. 9. The sum of one hundred thousand pesos, or so much thereof as may be necessary to carry out the purposes of this Act, is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated.

SEC. 10. This Act shall take effect upon its approval.

Approved, June 16, 1954.

S. No. 175

[REPUBLIC ACT NO. 1125]

AN ACT CREATING THE COURT OF TAX APPEALS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Court; judges; qualifications; salary; tenure.*—There is hereby created a Court of Tax Appeals which shall consist of a Presiding Judge and two Associate Judges, each of whom shall be appointed by the President, with the consent of the Commission on Appointments. The Presiding Judge shall be so designated in the commission issued to him by the President, and the Associate Judges shall have precedence according to the date of their commissions. The Presiding Judge shall receive a compensation of thirteen thousand pesos *per annum* and shall have the same qualifications, rank, category and privileges as the Presiding Judge of the Court of Industrial Relations. The Associate

Judges shall each receive a compensation of twelve thousand pesos *per annum* and shall have the same qualifications, rank, category and privileges as a member of the Court of Industrial Relations. The Presiding Judge and the Associate Judges shall be appointed to hold office during good behavior, until they reach the age of seventy, or become incapacitated to discharge the duties of their office, unless sooner removed for the same causes and in the same manner provided by law for members of the judiciary of appellate rank.

SEC. 2. *Quorum; temporary vacancy.*—Any two Judges of the Court of Tax Appeals shall constitute a *quorum*, and the concurrence of two judges shall be necessary to promulgate any decision thereof. In case of temporary vacancy, disability or disqualification, for any reason, of any of the Judges of the said Court, the President may, upon the request of the Presiding Judge, designate any Judge of First Instance to act in his place; and such Judge of First Instance shall be duly qualified to act as such.

SEC. 3. *Clerk of court; appointment; qualification; compensation.*—The Court of Tax Appeals shall have a Clerk of Court who shall be appointed by the President with the consent of the Commission on Appointments. No person shall be appointed Clerk of Court unless he is duly authorized to practice law in the Philippines. The Clerk of Court shall exercise the same powers and perform the same duties in regard to all matters within the court's jurisdiction, as are exercised and performed by clerks of Court of First Instance, in so far as the same may be applicable; and in the exercise of those powers and the performance of those duties the clerk shall be under the direction of the said court. The Clerk of Court shall receive a compensation of six thousand pesos *per annum*.

SEC. 4. *Other subordinate employees.*—The Court of Tax Appeals shall appoint, in accordance with the Civil Service Law, rules and regulations, the necessary personnel to assist it in the performance of its duties. The said Court shall fix their salaries and prescribe their duties.

SEC. 5. *Disqualifications.*—No judge or other officer or employee of the Court of Tax Appeals shall intervene, directly or indirectly, in the management or control of any private enterprise which in any way may be affected by the functions of the Court. Judges of the said Court shall be disqualified from sitting in any case on the same grounds provided under Rule one hundred twenty-six of the Rules of Court for the disqualification of judicial officers. No person who has once served in the Court in a permanent capacity, either as Presiding Judge or as Associate Judge thereof, shall be qualified to practice as counsel before the Court for a period of one year from his separation therefrom for any cause.

SEC. 6. *Place of office.*—The Court of Tax Appeals shall have its office in the City of Manila and shall hold hearings at such time and place as it may, by order in writing, designate with a view to assuring a reasonable opportunity for taxpayers to appear with as little inconvenience and expense as practicable.

SEC. 7. *Jurisdiction.*—The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided—

(1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;

(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and

(3) Decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

SEC. 8. *Court of record; seal; proceedings.*—The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

SEC. 9. *Fees.*—The Court shall fix reasonable fees for the filing of an appeal, for certified copies of any transcript of record, entry or other document, and for other authorized services rendered by the Court or its personnel.

SEC. 10. *Power to administer oaths; issue subpoena; punish for contempt.*—The Court shall have the power to administer oaths, receive evidence, summon witnesses by *subpoena* and require the production of papers or documents by *subpoena duces tecum*, subject in all respects to the same restrictions and qualifications as apply in judicial proceedings of a similar nature. The Court shall, in accordance with Rule sixty-four of the Rules of Court, have the power to punish for contempt for the same causes, under the same procedure and with the same penalties provided therein.

SEC. 11. *Who may appeal; effect of appeal.*—Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

No appeal taken to the Court of Tax Appeals from the decision of the Collector of Internal Revenue or the Collector of Customs shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law: *Provided, however,* That when in the opinion of the Court the collection by the Bureau of Internal Revenue or the Commissioner of Customs may jeopardize the interest of the Government and/or the taxpayer the Court at any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or

to file a surety bond for not more than double the amount with the Court.

SEC. 12. *Taking of evidence.*—The Court may, upon proper motion or on its initiative, direct that a case, or any issue thereof, be assigned to one of its members for the taking of evidence, when the determination of a question of fact arises upon motion or otherwise in any stage of the proceedings, or when the taking of an account is necessary, or when the determination of an issue of fact requires the examination of a long account. The hearing before such member shall proceed in all respects as though the same had been made before the Court.

Upon the completion of such hearing before such member, he shall promptly submit to the Court his report in writing, stating his findings and conclusions; and thereafter, the Court shall render its decision on the case, adopting, modifying, or rejecting the report in whole or in part, as the case may be, or, the Court may, in its discretion recommit it with instructions, or receive further evidence.

SEC. 13. *Decision.*—Cases brought before the Court shall be decided within thirty days after the submission thereof for decision. Decisions of the Court shall be in writing, stating clearly and distinctly the facts and the law on which they are based, and signed by the judges concurring therein. The Court shall provide for the publication of its decisions in the *Official Gazette* in such form and manner as may best be adopted for public information and use.

As in the case of judicial officers under section one hundred twenty-nine of the Administrative Code, the judges of the Court shall each certify on their applications for leave, and upon salary vouchers presented by them for payment, or upon the payrolls under which their salaries are paid, that all proceedings, petitions and motions which have been submitted to the Court for determination or decision for a period of thirty days or more have been determined or decided by the Court on or before the date of making the certificate, and no leave shall be granted and no salary shall be paid without such certificate.

SEC. 14. *Effect of decision that tax is barred by statute of limitations.*—If the assessment or collection of any tax is barred by any statute of limitations, the decision of the Court to that effect shall be considered as its decision that there is no deficiency in respect of such tax.

SEC. 15. *Publicity of proceedings and publication of decisions.*—All decisions of, and all evidence received by the Court and its divisions, including transcript of stenographic reports of the hearings, shall be public records open to the inspection of the public, except that after the decision of the Court in any proceeding has become final the Court may, upon motion of the taxpayer or the Government, permit the withdrawal, by the party entitled thereto of originals of books, documents and records, and of models, diagrams, and other exhibits, introduced in evidence before the Court or any division; or the Court may, on its own motion, make such other disposition thereof as it deems advisable. The Court shall provide for the publication of its decisions in the *Official Gazette* in such form

and manner as may be best adopted for public information and use.

SEC. 16. *Damages*.—Where an appeal is found to be frivolous, or that proceedings have been instituted merely for delay, the Court may assess damage against the appellant in an amount not exceeding five hundred pesos, which shall be collected in the same manner as fines or other penalties authorized by law.

SEC. 17. *Violation of penal law*.—When, in the performance of its functions, it should appear to the Court that a crime or other violation of law has been committed, or, that there are reasonable grounds to believe that any official, employee or private person is guilty of any crime, offense or other violation, the Court shall refer the matter to the proper department, bureau or office for investigation or the institution of such criminal or administrative action as the facts and circumstances of the case may warrant.

SEC. 18. *Appeal to the Supreme Court*.—No judicial proceeding against the Government involving matters arising under the National Internal Revenue Code, the Customs Law or the Assessment Law shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the Court of Tax Appeals and disposed of in accordance with the provisions of this Act.

Any party adversely affected by any ruling, order or decision of the Court of Tax Appeals may appeal therefrom to the Supreme Court by filing with the said Court a notice of appeal and with the Supreme Court a petition for review, within thirty days from the date he receives notice of said ruling, order or decision. If, within the aforesaid period, he fails to perfect his appeal, the said ruling, order or decision shall become final and conclusive against him.

If no decision is rendered by the Court within thirty days from the date a case is submitted for decision, the party adversely affected by said ruling, order or decision may file with said Court a notice of his intention to appeal to the Supreme Court, and if, within thirty days from the filing of said notice of intention to appeal, no decision has as yet been rendered by the Court, the aggrieved party may file directly with the Supreme Court an appeal from said ruling, order or decision, notwithstanding the foregoing provisions of this section.

If any ruling, order or decision of the Court of Tax Appeals be adverse to the Government, the Collector of Internal Revenue, the Commissioner of Customs, or the provincial or city Board of Assessment Appeals concerned may likewise file an appeal therefrom to the Supreme Court in the manner and within the same period as above prescribed for private parties.

Any proceeding directly affecting any ruling, order or decision of the Court of Tax Appeals shall have preference over all other civil proceedings except *habeas corpus*, workmen's compensation and election cases.

SEC. 19. *Review by certiorari*.—Any ruling, order or decision of the Court of Tax Appeals may likewise be reviewed by the Supreme Court upon a writ of *certiorari* in proper cases. Proceedings in the Supreme Court upon a writ of *certiorari* or a petition for review, as the case may be, shall be in accordance with the provisions of the Rules of Court or such rules as the Supreme Court may prescribe.

SEC. 20. *Appropriation.*—The sum of seventy thousand pesos is hereby appropriated out of any funds in the National Treasury not otherwise appropriated for the salaries and the purchase of supplies and equipment necessary for the operation of the Court of Tax Appeals herein established during the current fiscal year. Thereafter the funds necessary for the operation of the Court shall be included in the regular Appropriation Act.

SEC. 21. *General provisions.*—Whenever the words “Board of Tax Appeals” are used in Commonwealth Act Numbered Four hundred and seventy, otherwise known as the Assessment Law, or in other laws, rules and regulations relative thereto, the same shall read “Board of Assessment Appeals.”

The Central Board of Tax Appeals created under section two of Commonwealth Act Numbered Five hundred and thirty is hereby abolished.

Executive Order Numbered Four hundred and one-A, dated the fifth of January, nineteen hundred and fifty-one, is repealed and the Board of Tax Appeals created therein, abolished: *Provided, however,* That all cases heretofore decided by the said Board of Tax Appeals and thence appealed to the Supreme Court pursuant to Executive Order Numbered Four hundred one-A shall be decided by the Supreme Court on the merits to all intents and purposes as if said Executive Order had been duly enacted by the Congress: *And provided, further,* That all cases now pending in the said Board of Tax Appeals shall be transferred to the Court of Tax Appeals and shall be heard and decided by the latter to all intents and purposes as if they had been originally filed therein.

Any law or part of law, or any executive order, rule or regulation or part thereof, inconsistent with the provisions of this Act is hereby repealed.

SEC. 22. *Pending cases to be remanded to Court.*—All cases involving disputed assessment of Internal Revenue taxes or customs duties pending determination before the Court of First Instance shall be certified and remanded by the respective clerk of court to the Court of Tax Appeals for final disposition thereof.

SEC. 23. *Separability clause.*—If any clause, sentence, paragraph or part of this Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy.

SEC. 24. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 181

[REPUBLIC ACT NO. 1126]

AN ACT APPROPRIATING TWO MILLION FOUR HUNDRED AND FORTY-FIVE THOUSAND PESOS FOR THE PURCHASE AND INSTALLATION OF AUTOMATIC TELEPHONE TO REPLACE THE PRESENT GOVERNMENT SECOND-HAND AND OBSOLETE MANUAL TELEPHONE SYSTEM, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The following sums or so much thereof as may be necessary are hereby appropriated, out of the general funds in the National Treasury, not otherwise appropriated, to be disbursed by the Bureau of Telecommunications for the purposes specified hereunder:

(a) For the purchase of automatic telephone control office equipment and accessories, including cost of installation:

(1) For the first year	P800,000.00
(2) For the second year	400,000.00

Total	P1,200,000.00
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(b) For the purchase and installation of outside plant facilities (aerial and underground cable network, pole lines, etc.):

(1) For the first year	P350,000.00
(2) For the second year	350,000.00

Total	P700,000.00
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(c) For the purchase of telephone subscriber's instruments including installations:

(1) For the first year	P150,000.00
(2) For the second year	150,000.00

Total	P300,000.00
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(d) For the reconditioning of existing government buildings for use as telephone exchanges and/or for the construction of new buildings in case no available government buildings are suitable for such purpose as well as purchase of sites for buildings:

(1) For the first year	P100,000.00
(2) For the second year	75,000.00

Total	P175,000.00
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(e) For the purchase of installation, repair and maintenance tools and equipment and supplies, including such light and heavy line construction and maintenance trucks as may be necessary for the above purpose:

(1) For the first year	P70,000.00
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Total	P70,000.00
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SEC. 2. Upon the recommendation of the Secretary of Public Works and Communications, and with the approval of the President, excess in any item mentioned in section one hereof may be transferred to other items to cover shortages in the amounts appropriated therefor.

SEC. 3. All balances of the appropriations made in this Act remaining unexpended on June thirty, nineteen hundred and fifty-seven, shall be available for expenditures for this project until it is completed.

SEC. 4. The funds herein appropriated shall not be released unless and until the Secretary of Finance and the Auditor General shall have certified to the President

that there are existing and available funds in the National Treasury for the purpose.

SEC. 5. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 1585

[REPUBLIC ACT NO. 1127]

AN ACT AMENDING THE CHARTER OF THE CITY OF SAN PABLO SO AS TO MAKE ELECTIVE THE POSITION OF MAYOR AND ALL THE SEVEN MEMBERS OF THE MUNICIPAL BOARD AND TO DESIGNATE THE PRESIDING OFFICER OF THE SAID BOARD, THE ACTING MAYOR IN THE ABSENCE OR INCAPACITY OF THE CITY MAYOR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections seven, as amended, eight, eleven, as amended, and twelve of Commonwealth Act Numbered Five hundred and twenty, are amended to read as follows:

"SEC. 7. *The Mayor—His election and compensation.*—The Mayor shall be the chief executive of the city. He shall be elected at large by the qualified voters of the city during every election for provincial and municipal officials in conformity with the Revised Election Code. No person shall be elected Mayor, unless he is at least thirty years of age and a qualified voter therein.

"He shall receive a salary of not exceeding six thousand pesos a year. With the approval of the proper department head, the Mayor may be provided, in addition to his salary, a non-commutable allowance of not exceeding two thousand pesos *per annum*.

"SEC. 8. *The Acting Mayor.*—In the event of sickness, absence, or other temporary incapacity of the Mayor, the President of the Municipal Board shall perform the duties of the Mayor. In the event of a definitive vacancy in the position of Mayor, the President of the Philippines shall appoint a resident of the City of San Pablo to discharge the duties of the Mayor until said position shall be filled in accordance with law. If, for any reason, the duties of the office of the Mayor cannot be performed by the President of the Municipal Board, said duties shall be performed by the city treasurer. In case of the incapacity of the officials mentioned above to perform the duties of the Mayor, the President shall appoint or designate one. The Acting Mayor shall have the same powers, duties and compensation as the Mayor.

"SEC. 11. *Constitution and organization of the Municipal Board—Compensation of members thereof.*—The Municipal Board shall be the legislative body of the city and shall be composed of seven councilors who shall be elected at large by popular vote during every election for provincial and municipal officials in conformity with the provisions of the Revised Election Code. The members of the Board shall elect from among themselves a president, who for one year shall preside at all meetings of the Board in which he is present. In his absence, the Board shall elect one of its members as temporary presiding officer. The president of the Municipal Board shall sign all

the ordinances, and all resolutions and motions directing the payment of money or creating liability, enacted or adopted by the Board. In case of sickness, absence, suspension or other temporary disability of any member of the Board, or if necessary to maintain a *quorum*, the President of the Philippines may appoint a temporary substitute who shall possess all the rights and perform all the duties of a member of the Board until the return to duty of the regular incumbent.

"If any member of the Municipal Board should be a candidate for office in any election, he shall be deemed to have renounced his membership in the Municipal Board, except when he presents himself as candidate for the same position, in which case, he shall be incompetent to act with the Board in the discharge of the duties conferred upon it relative to election matters, and the other members of the Board shall discharge said duties without his assistance, or they may choose some disinterested elector of the city to act with the Board in such matters in his stead.

"The President of the Municipal Board shall receive a compensation of two thousand four hundred pesos *per annum* and the other members shall each receive a compensation of two thousand pesos *per annum*.

"The three councilors who were elected in the regular election for provincial and municipal officials in nineteen hundred and fifty-one shall continue in office until their successors shall have been elected and have qualified; and pending the next regular election for provincial and municipal officials, the President of the Philippines shall appoint with the consent of the Commission on Appointments the four other elective members of the Municipal Board.

"SEC. 12. *Qualifications, election, suspension, and removal of members of the Board.*—The members of the Municipal Board shall be qualified electors of the city and not less than twenty-three years of age. Upon qualifying, the members-elect shall assume office on the date fixed in the Election Code until their successors are elected and have qualified.

"If for any reason the election fails to take place on the date fixed by law, or such election results in a failure to elect one or more of the members, the President shall issue as soon as practicable a proclamation calling a special election to fill said office. Whenever the member-elect dies before assumption of office, or, having been so elected, his election is not confirmed by the President for disloyalty, or such member-elect fails to qualify for any reason, the President may in his discretion either call a special election or fill the office by appointment. Vacancies in the office shall be filled by appointment by the President of a suitable person belonging to the political party of the officer whom he is to replace.

"The members of the Municipal Board may be suspended or removed from office under the same circumstances, in the same manner, and with the same effect, as elective provincial officials, and the provisions of law providing for the suspension or removal of elective provincial officers are hereby made effective for the suspension or removal of said members of the Board."

SEC. 2. Republic Act Numbered Eight hundred seventy-nine is hereby repealed.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1874

[REPUBLIC ACT NO. 1128]

AN ACT TO AMEND CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED FOUR HUNDRED EIGHTY-ONE, ENTITLED "AN ACT TO PROVIDE MORE EFFICIENT DENTAL CARE FOR THE PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections two and five of Republic Act Numbered Four hundred eighty-one are amended to read as follows:

"SEC. 2. The Secretary of National Defense shall issue such regulations as may be necessary to carry out the intent of this Act, and the procedure for the performance of the dental functions of such dental service shall be defined and prescribed by appropriate directions to be issued by the Chief of Dental Service to the end that the dental service of the Armed Forces of the Philippines, shall study, plan and direct all matters coming within the cognizance of such service and all matters relating to dentistry shall be referred to the dental service. The Chief of Dental Service shall be directly responsible to the Chief of Staff for the administration of all matters related to the dental service. Hereafter the dental corps of the Armed Forces of the Philippines shall be known as the dental service.

"SEC. 5. The number of officers of the dental service shall not be less than two officers for every thousand of the total strength of the AFP authorized from time to time. A separate roster for officers of the dental service shall be kept separate from the medical service. Hereafter in time of war or other emergency the dental service shall consist of commissioned officers of the same grades and proportionately distributed among such grades as are now or may hereafter be provided for the medical corps, and who shall have the rank, pay and allowances of officers of corresponding grades in the medical corps."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 2171

S. No. 189

[REPUBLIC ACT NO. 1129]

AN ACT CONVERTING THE ALBAY TRADE SCHOOL INTO A REGIONAL SCHOOL OF ARTS AND TRADES OF SECONDARY AND COLLEGIATE LEVELS, TO BE KNOWN AS THE BICOL REGIONAL SCHOOL OF ARTS AND TRADES, AND AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE PURPOSE.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. The Albay Trade School is converted into a regional school of arts and trades of the Northern Luzon School of Arts and Trades type, to be known as the Bicol Regional School of Arts and Trades. The said school shall be under the supervision of the Bureau of Public Schools and subject to the provisions of the School Law. Courses of secondary and collegiate levels shall be offered in the said school.

SEC. 2. The sum of two hundred thousand pesos, or so much thereof as may be necessary, is authorized to be appropriated, out of any funds in the National Treasury not otherwise appropriated, for the operation and maintenance of the Bicol Regional School of Arts and Trades during the school year 1954-1955. Such sums as thereafter may be needed for the same purpose shall be included in the annual General Appropriation Act.

SEC. 3. The Secretary of Education is hereby empowered to make the necessary negotiations for the transfer without cost of such site, buildings, equipment, and other facilities of the Albay Trade School to the National Government, and to locate and acquire or cause to be located and acquired such additional site for the purpose of this Act which may be public or private lands situated within the Province of Albay.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 2230

[REPUBLIC ACT NO. 1130]

AN ACT TO CREATE AN ANTI-DUMMY BOARD, TO
PRESCRIBE ITS DUTIES AND FUNCTIONS,
AND FOR OTHER PURPOSES.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. There is hereby created in the Department of Justice a board which shall be designated and known as the Anti-Dummy Board and which shall be vested with and shall exercise the powers and duties hereinafter specified. The Anti-Dummy Board shall be composed of the Secretary of Justice who shall be *ex officio* Chairman of the Board, and four other members to be appointed by the President of the Philippines with the consent of the Commission on Appointments.

No person shall be appointed a member of the Anti-Dummy Board unless he is a natural-born citizen of the Philippines who has continuously resided in the Philippines not less than ten years before his appointment and he must be a citizen of good standing.

The tenure of office of members of the Board, with the exception of the Chairman, and the grounds of their separation shall be the same as those provided for in the case of Judges of Courts of First Instance.

SEC. 2. The main purpose of the Anti-Dummy Board shall be to insure the implementation of all the provisions of the Constitution, nationalization laws, and other legal

provisions which require Philippine citizenship or citizenship of any other specific country for the exercise or enjoyment of a right, franchise or privilege, property or business, and further, to coordinate, as far as practicable all government agencies charged with the enforcement of the said provisions of the Constitution and laws and, in particular, Commonwealth Act Numbered One hundred and eight, as amended, commonly known as the Anti-Dummy Law, and to make and publish a list of all associations and corporations having in their names, or under their control a right, franchise, privilege, property or business, the exercise or enjoyment of which is expressly reserved by the said Constitution or laws to citizens of the Philippines, or of the United States, or to corporations or associations at least fifty-one per cent of the capital of which is owned by such citizens, with a view to eliminating or preventing entirely, the evasion or circumvention of the said Constitutional provisions and laws.

SEC. 3. The Anti-Dummy Board shall have the following duties:

(a) To investigate violations and prosecute all violators of the laws mentioned in section two of this Act, hereinafter called dummies.

(b) To furnish professional services to informers who wish to avail themselves of section three-A of Commonwealth Act Numbered One hundred and eight, as inserted therein by Republic Act Numbered One hundred and thirty-four.

(c) To enter as *amicus curiae* in all court cases which may have arisen from dummy cases.

(d) To devise ways and means for the carrying out of an educational propaganda against dummies.

(e) To devise ways and means for the carrying out of all nationalization legislation.

(f) To organize local subcommittees in the chartered cities and municipalities and a provincial chapter in every capital of the provinces to help the Board in its campaigns against dummies.

(g) To issue rules and regulations for the government of the Board and that of the subcommittees and chapters to be established under the provisions hereof; and

(h) To perform such other duties as may enable the Board to carry out the purposes for which it has been created.

SEC. 4. In order to carry out its duties effectively, the Board shall be empowered to issue by itself or through any of its authorized investigators, *subpoenas* and *subpoenas duces tecum*, to designate any of its officers or investigators to administer oaths in the investigation of dummy cases, and to examine the books and accounts of any person, association or corporation involved in said cases.

SEC. 5. The Anti-Dummy Board shall have its main office in the City of Manila and shall meet at such time as it may designate. The presence of three members of the Board shall constitute a *quorum* for the transaction of any of its business. The Board shall distribute its work among its members by lot: *Provided*, That the Chairman shall exercise supervision over the other members of the Board.

With the exception of the Chairman of the Board, each member of the Board shall receive a salary of four thousand eight hundred pesos *per annum*: *Provided*, That if a member of the Board is a government official, he shall not receive extra compensation as such member.

SEC. 6. There shall be a secretary-treasurer of the Anti-Dummy Board, who shall be a member of the Philippine Bar and who shall be appointed by the Board. The said officer shall receive an annual compensation of six thousand pesos. The duties of the secretary-treasurer shall be to keep full and correct minutes of all the proceedings of the Board; to pay out of the funds in his charge all properly approved accounts and, in general, to manage the funds entrusted to him by and in behalf of the Board as authorized by law and regulations; and to perform such other duties as may be assigned to him by the Board.

The Anti-Dummy Board may appoint attorneys, investigators and other employees as it may deem necessary and fix their duties and salaries: *Provided*, That investigators appointed by the Board shall be lawyers, and/or certified public accountants, the proportion of the number of lawyers and accountants to be at the discretion of the Board. Each investigator shall receive a salary of at least three thousand six hundred pesos *per annum*.

The President may, upon recommendation of the Board, detail one or more assistant provincial fiscals or assistants attorneys under the Department of Justice, or any other employees in the National, provincial, city or municipal governments, on special duty with the Board. Employees so detailed shall perform such duty as is required under such detail, and the time so employed shall count as part of their regular official service.

SEC. 7. The permanent officials and employees of the Anti-Dummy Board and those detailed under special duty therewith, members of the Philippine Constabulary, members of the city, municipal and municipal district police, agents of the Bureau of Internal Revenue, agents of the Bureau of Immigration and such other officers and employees of the government as may be designated by the Chairman of the Board, are hereby made deputies of the Anti-Dummy Board, with full authority to enforce the provisions of sections three and four of this Act and the Nationalization Laws, and to arrest offenders against the same.

SEC. 8. There is appropriated, out of any funds in the National Treasury not otherwise appropriated, the sum of two hundred thousand pesos or so much thereof as may be necessary, to be placed at the disposal of the Board, subject to paragraph four, General Provisions, section seven of Commonwealth Act Numbered Two hundred and forty-six, as amended, for the payment of the salaries of the necessary personnel, for the purchase of necessary equipment and supplies, and for sundry expenses to be incurred to carry into effect the provisions of this Act during the fiscal year nineteen hundred and fifty-five. Thereafter, the necessary sum for the operation of the said Board shall be included in the General Appropriation Act.

SEC. 9. This Act shall take effect on July 1, 1954.

Approved, June 16, 1954.

H. No. 2426

[REPUBLIC ACT No. 1131]

AN ACT TO AMEND SECTIONS THREE, SEVEN AND TWELVE OF REPUBLIC ACT NUMBERED SIX HUNDRED SEVENTY-NINE, ENTITLED "AN ACT TO REGULATE THE EMPLOYMENT OF WOMEN AND CHILDREN, TO PROVIDE PENALTIES FOR VIOLATION HEREOF, AND FOR OTHER PURPOSES."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections three, seven and twelve of Republic Act Numbered Six hundred seventy-nine are amended to read as follows:

"SEC. 3. *Employment of persons below eighteen years of age.*—(a) No woman below eighteen years shall be employed or permitted or suffered to work, with or without compensation, in any bar, night club, dance hall, dancing school for men, escort service, lodging house, massage clinic, hotel, resort or other place of work similar to the foregoing, as hostess, waitress, individual entertainer or escort for men, taxi-dancer, professional dance partner, attendant, or in any other similar capacity.

"(b) No child below eighteen years of age shall be employed or permitted or suffered to work in any pharmacy or laboratory for the preparation of drugs or pharmaceutical or chemical products.

"(c) No person below eighteen years of age shall be employed or permitted or suffered to work in any shop, factory, industrial or commercial establishment or other place of labor—

"(1) where the work is done in connection with the preparation of, or involves contamination with, any noxious, poisonous, infectious or explosive substances; or

"(2) where the work, not otherwise specified in this Act, involves serious danger to the life or health of the employee, as the Secretary of Labor may determine after consultation with representatives of employers and employees or organizations thereof.

"For the purposes of paragraph (2) of subsection (c) of this section, the Secretary of Labor shall from time to time issue orders specifying the occupations which he determines would involve serious danger to the life or health of the employees and shall cause such orders to be published in newspapers of general circulation or by such other means as he deems reasonably calculated to give to interested persons general notice of such issuance. Any such order shall take effect thirty days after entry thereof.

"SEC. 7. *Employment of women.*—(a) No woman, regardless of age, shall be employed in any shop, factory, commercial or industrial establishment or other place of labor to perform work which requires the employee to work always standing or which involves the lifting of heavy objects.

"(b) No woman, regardless of age, shall be employed or permitted or suffered to work, with or without com-

pensation, in any industrial undertaking or branch thereof between ten o'clock at night and six o'clock in the morning of the following day, except those who are immediate members of the family operating or owning the same. An employer may be exempted from the requirement of this subsection—

- “(1) in case of force majeure causing an interruption in the work which was not foreseen and which is not of a recurring character;
- “(2) by the Secretary of Labor, if he finds, after proper investigation, that the work has to do with raw materials or materials in the course of treatment which are subject to rapid deterioration and night work is necessary to preserve such materials from loss; and
- “(3) by the President of the Philippines, with or without the recommendation of the Secretary of Labor, in case of emergency where national interests demand the suspension of the night work prohibition for women in a particular industry or industries.

“(c) No woman, regardless of age, shall be employed or permitted or suffered to work, with or without compensation, in any commercial or non-industrial undertaking or branch thereof, other than agricultural, between twelve o'clock midnight and seven o'clock in the morning of the following day, except those who are immediate members of the family owning or operating the same.

“(d) No woman, regardless of age, shall be employed or permitted or suffered to work in any agricultural undertaking at night time without giving her a period of rest of not less than nine consecutive hours.

“The prohibition against night work for women provided for in subsections (b), (c) and (d) hereof shall not apply to—

“(1) women holding responsible positions of a managerial or technical character; and

“(2) women employed in health and welfare services.

“(e) In any shop, factory, commercial, industrial, non-industrial, or agricultural establishment or other place of labor where men and women are employed, the employer shall not discriminate against any woman in respect to terms and conditions of employment on account of her sex, and shall pay equal remuneration for work of equal value for both men and women employees.

“SEC. 12. *Violation and penalties.*—(a) It shall be unlawful for any employer: (1) to discharge any woman employed by him for the purpose of preventing such woman from enjoying the benefits of sections seven or eight of this Act; (2) to discharge such woman on account of her pregnancy, or while on leave or in confinement due to her pregnancy; or (3) to discharge or refuse the admission of such woman upon returning to her work for fear that she may again be pregnant.

“(b) It shall be unlawful for any employer to discharge any woman or child employed by him for having filed a complaint under this Act or to discharge such woman or child or any other employee who has given testimony or is about to give testimony under this Act.

"(c) It shall be unlawful for any employer to discharge any woman or child employed by him for any other cause which is not attributable to the fault of such employee or worker.

"(d) Any violation of any provision of this Act shall be punished by a fine of not less than one hundred pesos nor more than five thousand pesos, or by imprisonment for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the Court.

"If the violation is committed by a firm, association or corporation, the manager or, in his default, the person acting as such, shall be liable."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 1249

[REPUBLIC ACT NO. 1132]

AN ACT AUTHORIZING THE CITY OF BACOLOD TO CONTRACT AN INDEBTEDNESS OR TO ISSUE BONDS IN THE AMOUNT NOT EXCEEDING SIX MILLION PESOS TO FINANCE THE RECLAMATION OF FORESHORE LANDS IN SAID CITY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In order to implement Republic Act Numbered One hundred sixty-one, which authorizes the City of Bacolod to undertake the reclamation of foreshore lands at its own expense, the Government of the City of Bacolod is hereby authorized to contract an indebtedness with any person, association, corporation or money lending institution, or to issue bonds in the amount not exceeding six million pesos to raise funds with which to finance such reclamation of foreshore lands bordering the City of Bacolod in order to establish and provide proper and adequate docking and harbor facilities for interisland and ocean-going vessels calling at the aforesaid city. All lands reclaimed as herein provided except such as may be necessary for roads, parks and other public improvements, shall be sold or leased to the public under such rules and regulations as the City of Bacolod may prescribe. All the proceeds derived from the sale or lease of such land shall be credited to a special fund which shall be used exclusively for the payment of all obligations in connection with said land reclamation project, and the balance thereof shall be credited to a special public works fund to be used exclusively for public works for the improvement of the City of Bacolod.

SEC. 2. In case the City of Bacolod shall decide to issue bonds, the Secretary of Finance, in consultation with the Monetary Board of the Central Bank of the Philippines, shall prescribe the form, the rate of interest, call and redemption features, and all other terms and conditions of issuance, placement, sale, servicing, redemption features, and payment of all bonds issued under the authority of this Act.

The bonds issued under the authority of this Act may be made payable both, as to the principal and interest,

in Philippine currency or any readily convertible foreign currency.

Nothing in this section shall be interpreted to mean that the Secretary of Finance, in the redemption of securities, is prevented from applying the lottery principle by which bonds, drawn by lot, may be redeemed before maturity either at their face value or above.

The bonds to be issued under this Act shall be exempt from taxation by the Government of the Republic of the Philippines or by any political or municipal subdivision thereof, which fact shall be stated on their face value in accordance with this Act under which said bonds are issued.

SEC. 3. A sinking fund shall be established in such manner that the annual contributions thereto, accrued as at such rate of interest as may be determined by the Secretary of Finance in consultation with the Monetary Board, shall be sufficient to redeem at maturity the bonds issued under this Act. Said fund shall be under the custody of the Central Bank of the Philippines which shall invest the same in such manner as the Monetary Board may approve; shall charge all expenses of such investment to said sinking fund; and shall credit the same with interest on investments and other income belonging to it.

SEC. 4. The provisions of existing law to the contrary notwithstanding, the Director of Public Works shall have the supervision of all work to be done and improvements to be made under the provisions of this Act.

SEC. 5. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 1842

[REPUBLIC ACT No. 1133]

AN ACT TO AMEND ITEM (h), GROUP I, FOR THE PROVINCE OF ILOILO, SUBSECTION (a), TITLE C, SECTION ONE OF REPUBLIC ACT NUMBERED NINE HUNDRED TWENTY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Item (h), Group I, for the Province of Iloilo, subsection (a), Title C, section one of Republic Act Numbered Nine hundred twenty is amended to read as follows:

“(h) For the roadside development of the Dingle-San Enrique road, including the improvement of the Moroboro Spring and the establishment of a travelers’ rest-house..... ₱25,000.00”

SEC. 2. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 1450

[REPUBLIC ACT No. 1134]

AN ACT TO PROVIDE FOR LONGEVITY PAY TO OFFICERS OF THE ARMED FORCES OF THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Hereafter each officer of the Armed Forces of the Philippines shall receive in addition to his monthly base pay longevity pay equivalent to ten *per centum* of the monthly base pay authorized for his grade for each five years of faithful and efficient service heretofore or hereafter rendered as an officer of the Armed Forces of the Philippines and of recognized guerrilla units, such additional pay to be compounded every five years: *Provided*, That the total amount of longevity pay shall not exceed fifty *per centum* of the officer's monthly base pay as prescribed by law: *Provided, further*, That nothing in this section shall be construed as authorizing payment of any back longevity pay for any period of services heretofore rendered.

SEC. 2. For purposes of this Act, the sum total of the active tours of duty of reserve officers shall be counted.

SEC. 3. Section five (d) of Republic Act Numbered Two hundred ninety-one is hereby repealed.

SEC. 4. This Act shall take effect on July 1, 1954.

Approved, June 15, 1954.

H. No. 2011

[REPUBLIC ACT No. 1135]

AN ACT ESTABLISHING THE PHILIPPINE TOBACCO ADMINISTRATION, DEFINING ITS OBJECTIVES, POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I.—*Establishment and Objectives*

SECTION 1. *Name and domicile*.—There is hereby created the "Philippine Tobacco Administration", called for short the PTA, which shall be organized within sixty days after the approval of this Act. It shall have its main office in the City of Manila, and such branches and agencies within and outside of the Philippines as may be necessary for the proper conduct of its business. The PTA shall be under the supervision of the Administrator of Economic Coordination.

SEC. 2. *Purposes and objectives*.—The PTA shall have the following purposes and objectives:

(a) To promote the effective merchandising of leaf tobacco in the domestic and foreign markets so that those engaged in the industry will be placed on a basis of economic security;

(b) To conduct researches on tobacco and tobacco products in all its phases, either agricultural or industrial, for the purpose of: (1) introducing into the agronomy and industry of tobacco such practices or processes as will increase the yield and quality of the leaves and products, thus reducing the cost of production but materially increasing the profit; (2) developing strains of different types of tobacco seeds through intensive breeding and selection from native and imported stocks; and (3) utilizing and converting factory by-products which are for the present allowed to go to waste into varied articles of

economic value, thus achieving greater production and efficiency in the industry;

(e) To improve existing methods of manufacture of tobacco products, such as the preparation of aged leaves for manufacture and the improvement of existing blends of cigars and cigarettes;

(d) To establish and maintain efficient balanced relation between production and consumption of tobacco leaves and tobacco products, and such marketing conditions as will insure and stabilize the price at a level sufficient to cover the cost of production plus reasonable profit;

(e) To insure a permanent, sufficient and balanced production of tobacco leaves, tobacco products and by-products for local consumption and exportation;

(f) To create warehousing and marketing facilities in suitable centers and supervise the selling and buying of leaves produced by the farmers on bidding basis;

(g) To supervise and control the classification and grading of leaf tobacco in the packing establishments of wholesale tobacco dealers, exporters, large plantation owners, and auction floors, in accordance with existing rules and regulations; and

(h) To improve the living and economic conditions of the laborers engaged in the tobacco industry by gradual and effective correction of the inequalities in the industry.

ARTICLE II.—*Powers*

SEC. 3. *Specific and general powers.*—For carrying out the purposes mentioned in the preceding section, the PTA shall have the following powers:

(a) To establish, keep, maintain and operate such experiment stations and seed farms in any part of the Philippines as may be necessary to undertake extensive research in tobacco culture and curing, including studies on the feasibility of mechanizing tobacco farms, development of suitable tobacco varieties and strains suited for the different tobacco regions, control and eradication of tobacco pests and diseases, reduction of the cost of production, and the agronomical studies inherent with the culture of this crop;

(b) To establish, maintain and/or subsidize a chemical tobacco research laboratory for industrialization studies on processing, fermentation and aging to produce a quality leaf for the factories: *Provided*, That this phase of the work shall be under the care and supervision of the Institute of Science and Technology, which shall from time to time submit programs of studies to the PTA for approval and assignment of funds to carry out such programs;

(c) To purchase, make or invent such machineries and materials, equipment and supplies as may be necessary to prosecute successfully its researches and experimental work;

(d) To expand and explore the domestic and foreign trades for tobacco leaves, tobacco products and by-products to assure mutual benefits to consumers and producers, and to promote and maintain a sufficient general production of tobacco leaves, tobacco products and by-products by an efficient coordination of the component elements of the tobacco industry of the Philippines;

(e) To buy, sell, assign, own, operate, rent or lease, subject to existing laws, machineries, equipment, materials, merchant vessels, rails, railroad lines and other equipment and materials necessary for the production, processing, manufacture, handling and transportation and warehousing of tobacco leaves, tobacco products and by-products;

(f) To grant loans and credits, on reasonable terms, to tobacco planters when it deems such loans advisable;

(g) To enter, make and execute contracts of any kind as may be necessary or incidental to the attainment of its purposes with any person, firm, or public or private corporation, with the government of the Philippines or of the United States, or of any state, or with any person therefrom, or with any foreign government with treaties with the government of the Philippines;

(h) To buy, process, and age, and sell all tobacco leaves, as well as stabilize and guarantee prices of just cured tobacco leaves, based on grades;

(i) To provide credit facilities to registered tobacco planters directly or through credit cooperative associations or any other financial institutions;

(j) To promote, foster and encourage the organization of cooperative associations among tobacco planters, producers or dealers;

(k) To act as agent, broker or commission merchant of producers' cooperative associations or act as tobacco manufacturers' agent;

(l) To do all such things, transact all such business and perform such functions directly or indirectly necessary, incidental or conducive to the attainment of the purposes of the PTA; and

(m) Generally, to exercise all the powers of a corporation under the Corporation Law, insofar as they are not inconsistent with the provisions of this Act.

ARTICLE III.—*Governing Body*

SEC. 4. *Composition and appointment.*—The powers of the PTA shall be vested in, and exercised by, a Board of Directors consisting of five members to be appointed by the President with the consent of the Commission on Appointments. The President of the Philippines shall appoint the Chairman of the Board from among its members who shall act as the General Manager. Of the five directors first appointed as above prescribed, the President of the Philippines shall designate one to serve for one year, one for two years, one for three years, one for four years, and one for five years; and thereafter, each director appointed shall serve for five years. Whenever a vacancy shall occur among the directors, the person appointed to fill it shall hold office for the unexpired term of the member whose place he is selected to fill. Any director shall be subject to removal by the President of the Philippines. Three members of the Board of Directors shall constitute a *quorum* for the transaction of business. Before entering upon the discharge of their duties, each of the directors shall take the oath prescribed by law. The members of the Board shall each receive a *per diem* of not to exceed twenty pesos for each day of meeting actually attended by them, except the General Manager who shall receive a salary of not to exceed twelve thousand pesos

per annum: Provided, That the meetings of the Board shall not exceed four meetings a month: Provided, further, That the provisions of paragraph one—General Provisions, section seven of Commonwealth Act Numbered Two hundred forty-six to the contrary notwithstanding, no officer or employee of the Government receiving a fixed compensation or salary from public funds and serving as director of the Administration shall be paid the per diem herein provided. Directors of the Administration shall not be allowed to receive more than one hundred pesos per month in per diem.

SEC. 5. *Powers and duties of the Board of Directors.*—The Board of Directors shall have the following powers:

(a) To prescribe, amend, modify or repeal by-laws, rules and regulations, not inconsistent with the provisions of this Act, governing the manner in which the general business of the PTA may be exercised, subject to the approval of the Administrator of Economic Coordination;

(b) To appoint and fix the compensation of the Assistant General Manager, subject to the approval of the Administrator of Economic Coordination and consent of the President of the Philippines, and to appoint and fix the compensation of the other officers of the PTA with the approval of the Administrator of Economic Coordination;

(c) To approve the annual budget of the PTA and/or such supplemental budgets thereof as may be submitted to the Board by the General Manager from time to time; and

(d) To perform such other duties as may be assigned to it by the President of the Philippines and/or by the Administrator of Economic Coordination.

ARTICLE IV.—*Management*

SEC. 6. *Managing head.*—The management of the PTA shall be vested in the General Manager.

SEC. 7. *Powers and duties of the General Manager.*—The duties of the General Manager shall be:

(a) To direct and manage the affairs of the PTA on behalf of the Board of Directors and subject to its control and supervision;

(b) To submit within sixty days after the close of the fiscal year an annual report to the Administrator of Economic Coordination, through the Board of Directors;

(c) To appoint and fix the number and salaries, with the approval of the Board of Directors, of such subordinate employees as may be necessary for the proper discharge of the duties and functions of the PTA;

(d) To suspend or otherwise discipline, for cause, any subordinate employee of the PTA; and

(e) To perform such other duties as may be assigned to him by the Board of Directors from time to time.

SEC. 8. *Powers and duties of the Assistant General Manager.*—The Assistant General Manager shall assist the General Manager and shall perform such other duties as may be assigned to him by the General Manager and/or the Board of Directors. The Assistant General Manager shall be at the same time head of one of the departments of the PTA, to be designated by the Board, and shall be technically trained along tobacco work. He

shall act as General Manager in case of temporary absence or incapacity of the latter, and when the Assistant General Manager acts as General Manager he shall sit in all meetings of the Board of Directors and participate in the deliberations, but without the right to vote.

ARTICLE V.—*Appointments and Promotions*

SEC. 9. *Basis*.—In the appointment and promotion of officers and employees of the PTA, merit, seniority and efficiency shall serve as basis, and no political test or qualification shall be prescribed and considered for such appointments and promotions. Any person appointed by the Board or by the General Manager in violation of this prohibition shall be removed by the Administrator of Economic Coordination, and the official responsible for such violation shall be suspended or removed from office by the President of the Philippines.

SEC. 10. *Applications of Civil Service Law and Rules*.—All officers and employees of the Administration shall be subject to the Civil Service Law and Rules, except those whose positions may, upon recommendation of the Board of Directors, be declared by the President of the Philippines as policy determining, primarily confidential or highly technical in nature.

ARTICLE VI.—*Books of Accounts, Purchases and Contracts*

SEC. 11. *Books of Accounts*.—The PTA shall, at all times, maintain complete and accurate books of accounts, which shall be segregated under five main accounts, namely:

(a) Account No. 1, pertaining to PTA activities in the stabilization of prices;

(b) Account No. 2, pertaining to PTA activities in the development and improvement of production;

(c) Account No. 3, pertaining to PTA activities in the promotion of economic and social conditions of the people engaged in the production of tobacco;

(d) Account No. 4, pertaining to production of tobacco leaves ready for manufacture, industrialization programs, etc.; and

(e) Account No. 5, pertaining to development of trade within and outside of the Philippines.

SEC. 12. *Purchases and contracts*.—All purchases and contracts for supplies or services, except for personal services, made by the PTA, shall be made after advertising in such a manner and at such times sufficiently in advance of opening of bids as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required, and purchases may be made in the open market in the manner common among business houses: (1) when an emergency requires immediate delivery of the supplies or performance of the service; or (2) when repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) when the aggregate amount involved in any purchase of supplies or procurement of services does not exceed five hundred pesos: *Provided, further*, That in comparing bids and in making awards, the Board may consider such

factors as relative quality, adaptability of supplies or services, the bidders' financial responsibility, skill, experience, record or integrity, ability to furnish repairs and/or maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications: *Provided, further*, That in case supplies may be procured from a government, domestic or foreign, and it can be established to the satisfaction of the PTA that the government price is the lowest possible, considering quality and period of delivery, purchases from such government may be made without public bidding.

ARTICLE VII.—*Audit*

SEC. 13. *Personnel*.—The Auditor General shall appoint a representative who shall be the Auditor of the PTA, and the necessary personnel to assist said representative in the performance of his duties. The salary of such auditor and the number and salaries of said personnel shall be determined by the Auditor with the advice of the Board of Directors. In case of disagreement, the matter shall be submitted to the President of the Philippines, whose decision shall be final. Said salaries and all other expenses of maintaining the Auditor's office shall be paid by the PTA.

SEC. 14. *Report*.—The financial transactions of the PTA shall be audited in accordance with law, administrative regulations, and the principles and procedures applicable to commercial corporate transactions. A report of audit for each fiscal year shall be submitted, within sixty days after the close of the fiscal year, through the Auditor General, to the Board of Directors of the PTA, and copies thereof shall be furnished to the President of the Philippines, the Administrator of Economic Coordination and the Presiding Officers of the two Houses of Congress. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expenses; a statement of sources and application of funds; and such comments and information as may be necessary, together with such recommendations with respect thereto as may be advisable, including a report of any impairment of capital noted in audit. The report shall also show specifically any program, expenditures or other financial transaction or undertaking observed in the course of audit which, in the opinion of the Auditor, has been carried on or made without authority of law and/or contrary to existing regulations, whether or not authorized by the Board of Directors.

ARTICLE VIII.—*Funds*

SEC. 15. *Capitalization*.—To carry out the purpose of this Act, there is created a special fund to be known as the "Tobacco Industry Promotion Fund" which shall be taken from taxes derived from the tobacco industry to be made available as follows: two million pesos, which is hereby appropriated, and, thereafter, an annual appropriation of two million pesos is authorized for a period of four years.

This Fund will be apportioned in the following manner: Twenty per cent will be spent for operating expenses; Seventy per cent will be used for tobacco trading; and Ten per cent for researches to improve the tobacco industry in all its phases.

There shall be added to the capital of this Philippine Tobacco Administration all the funds, assets and properties still available belonging to the defunct National Tobacco Corporation.

ARTICLE IX.—*Dissolution and Liquidation*

SEC. 16. *Liquidation*.—When the PTA is dissolved by law, it shall nevertheless continue as a body corporate for three years after the time of its dissolution, for the purpose of prosecuting and defending suits by or against it, and enabling it gradually to settle and close its affairs, and to dispose of and convey its properties, but not for the purpose of continuing the business for which it was established. Upon dissolution of the PTA, a Board of Liquidators shall be appointed by the President of the Philippines to take charge of winding up its corporate affairs and effecting its liquidation, and all the transactions of this Board shall be subject to the supervision and control of the Administrator of Economic Coordination.

SEC. 17. *Reversion to General Funds*.—All funds resulting from the dissolution and liquidation of the PTA, as herein provided, shall revert to the general fund of the National Government.

ARTICLE X.—*Miscellaneous Provisions*

SEC. 18. *Applicability of the Corporation Law*.—The provisions of the Corporation Law which are not inconsistent with the provisions of this Act shall be applicable to the PTA.

SEC. 19. *Repealing clause*.—All Acts, executive orders, administrative orders, proclamations, rules and regulations, or parts thereof, inconsistent with any of the provisions of this Act are repealed or modified accordingly.

SEC. 20. *Separability clause*.—If any provision of this Act or the application of such provision to any person or circumstance is declared unconstitutional, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 21. *Effectivity*.—This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 2505

[REPUBLIC ACT NO. 1136]

AN ACT REORGANIZING THE DIVISION OF TUBERCULOSIS IN THE DEPARTMENT OF HEALTH

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Division of Tuberculosis in the Department of Health, hereinafter called the Division, is reorganized to include an administrative section with a statistical, motor and electrical maintenance, library, and

buildings and grounds maintenance units; a section of clinics and therapy; a section of prevention and immunization with a BCG immunization and children's clinic, and health education and social service units; a section of X-ray operation and maintenance; and a section of TB laboratory and research.

The Division shall have a chief and an assistant chief who shall be appointed by the Secretary of Health and shall receive annual compensation at the rate of seven thousand two hundred pesos and six thousand pesos, respectively. It shall also have such technical, clerical and other personnel as may be determined by the Secretary of Health who shall appoint them and fix their compensation in accordance with law: *Provided, however,* That all the subordinate personnel of the present Division of Tuberculosis in the Department of Health shall continue in office with at least the same compensation.

SEC. 2. The Division shall have the following functions:

(a) To coordinate, direct, and implement a well-balanced, comprehensive and intensive scheme of tuberculosis control services in the country, including prevention by direct (BCG immunization) and indirect methods, diagnosis, treatment, social rehabilitation, public health training (for laymen and medical personnel), research, epidemiological and statistical studies, and national and international pooling of information;

(b) To establish and maintain at least thirty fully-equipped, fully-manned provincial TB centers within four years, complete with diagnostic laboratory, X-ray and treatment facilities (surgical and non-surgical), giving free services;

(c) To operate and supervise wards for TB patients in provincial hospitals where there are provincial TB centers;

(d) To establish and maintain at least thirty mobile X-ray units within four years in order to reach rural areas with no access to the chest center;

(e) To establish and maintain at least thirty mobile TB prevention units to undertake mass BCG immunization of susceptible children and young adults, intensive health education of the public by all possible means (loudspeaker attached to wagons, lectures, movies, leaflets), home-visiting by home-visitors in rural areas, and gathering of epidemiological information on TB;

(f) To establish and maintain at least six village rest settlements, in strategic and suitable geographic areas in all the three principal regions of the Philippines, for patients with initial or convalescing tuberculosis who have no place in sanatoria or hospitals, and to facilitate their rehabilitation and replacement, as well as those of their families, into normal society by teaching them gainful occupations under proper medical control;

(g) To establish and maintain a National Tuberculosis Center to serve as the central headquarters for the direction of public health tuberculosis work throughout the country, to receive all reports, and statistical and epidemiological information, to serve as training center in tuberculosis for all categories of public health workers in the country;

(h) To pool all information on tuberculosis and exchange such information with other countries; and

(i) To cooperate with all agencies, governmental and voluntary, in matters of general public health welfare.

SEC. 3. There is created the National Advisory Council on Tuberculosis to be composed of the Secretary of Health, as chairman, one representative each of the Department of Labor, Department of Education, and Social Welfare Administration, to be designated by their respective heads, a representative of the Philippine Tuberculosis Society, and a representative each of two civic organizations to be designated by the President of the Philippines. The chief of the Division of Tuberculosis shall be the executive-secretary of the National Advisory Council on Tuberculosis. The said Council shall give advice to the Division regarding the performance of its functions.

SEC. 4. The FOA-PHILCUSA and WHO-UNICEF-assisted TB and BCG units when they are ready to be turned over fully to the Government, all tuberculosis clinics supported by provincial or city governments if the provinces and cities concerned agree, and all the TB public health activities of the Department of Health, Department of Education, and Social Welfare Administration are transferred to the Division of Tuberculosis as herein reorganized. The said Division is authorized and directed to receive, staff, and maintain any TB center or pavilion which the Philippine Tuberculosis Society may turn over voluntarily to the Division.

SEC. 5. In lieu of the appropriations for the present Division of Tuberculosis in the Department of Health, there is appropriated, out of any funds in the National Treasury not otherwise appropriated, the sum of two million five hundred thousand pesos, or so much thereof as may be necessary, to carry out the purposes of this Act for the fiscal year nineteen hundred fifty-five. The necessary sum for the operation of the Division in subsequent years shall be included in the General Appropriation Act.

SEC. 6. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 2516

[REPUBLIC ACT NO. 1137]

AN ACT TO AMEND COMMONWEALTH ACT NUMBERED SEVEN HUNDRED AND THIRTY-THREE

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section one of Commonwealth Act Numbered Seven hundred and thirty-three is hereby amended to read as follows:

"SECTION 1. *Acceptance of, and authority to formally execute, the Executive Agreement.*—The Executive Agreement which the President of the Philippines and the President of the United States have agreed to enter into pursuant to Title IV of Public Law Three hundred seventy-one—Seventy-ninth Congress, approved April thirty, nineteen hundred forty-six, entitled 'An Act to provide for the trade relations between the United States and the Philippines, and other purposes,' as hereinbefore set forth, is hereby accepted and approved, and the President of the Philippines is authorized to formally execute the same on or after July fourth, nineteen hundred and forty-six. For the purpose of securing a revision of the aforesaid Agreement, without

prejudice to its termination should a mutually satisfactory revision not be obtained, and notwithstanding the provisions of section two hereof enacting and continuing in effect as laws of the Philippines during the effectiveness of the said Agreement sections three hundred and eleven and three hundred and twelve of the Philippine Trade Act of nineteen hundred and forty-six, the duty-free treatment provided for in Article I, Paragraph 1, of the Agreement shall apply in lieu of the treatment provided for in Article I, Paragraph 2, subparagraphs (a) and (b), to United States articles, entered or withdrawn from warehouse in the Philippines for consumption, during such period after the third day of July, nineteen hundred and fifty-four, but not after the thirty-first day of December, nineteen hundred and fifty-five, as the President may declare by proclamation to be a period during which Philippine articles, as defined in subparagraph (f) of Paragraph 1 of the Protocol, other than specified in items D to G, both inclusive, of the schedule to Article II, will be admitted into the United States free of customs duty, as such duty is defined in the Agreement, and during which the application of subparagraph (b) of Paragraph 2, Article II, if it should be applied by the United States, will not substantially impair the national economy: *Provided*, That any such proclamation shall be without prejudice to subparagraphs (a) and (b) of Paragraph 2, Article I, being considered as having been in effect for the purpose of applying the provisions of subparagraph (e) of Paragraph 2, Article I, of the Agreement."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 2301

[REPUBLIC ACT No. 1138]

AN ACT TO AMEND CERTAIN SECTIONS OF THE ADMINISTRATIVE CODE, AS AMENDED BY REPUBLIC ACT NUMBERED ONE HUNDRED SIXTY-FOUR, RELATIVE TO OFFICES OF REGISTERS OF DEEDS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections one hundred ninety-two, one hundred ninety-two (b), and two hundred one of the Administrative Code, as amended by Republic Act Numbered One hundred sixty-four, are hereby amended to read as follows:

"SEC. 192. *Office of register of deeds*.—There shall be one register of deeds for each city and one for each province, except in the Mountain Province, where there shall be two: one for the Subprovince of Benguet and another for the rest of the province: *Provided, however*, That the register of deeds of the City of Baguio or whoever performs his duties shall be *ex officio* register of deeds for the Subprovince of Benguet, and that the register of deeds of a province whose capital is a chartered city or whoever is acting in his place shall likewise be *ex officio* register of deeds for said city.

"There shall be one deputy register of deeds in each of the registries of the City of Manila, Quezon City, the provinces of Cebu, Iloilo, Negros Occidental, Pangasinan

and Rizal, and also in each registry with a yearly average collection of more than thirty thousand pesos, whenever in the judgment of the Secretary of Justice the needs of the service so demand. The deputy register of deeds shall be in the classified service and shall be appointed by the Secretary of Justice, upon recommendation of the Chief of the General Land Registration Office."

"SEC. 192(b). *Salaries of registers of deeds.*—The salary of the register of deeds of the City of Manila shall be seven thousand two hundred pesos *per annum*; (1) that of the registers of deeds of the Provinces of Iloilo, Negros Occidental, and Rizal, and Quezon City, six thousand pesos *per annum*; (2) that of the register of deeds of the Province of Pangasinan, five thousand four hundred pesos *per annum*; (3) that of the registers of deeds of the Provinces of Bulacan, Cebu, Nueva Ecija, Pampanga, Quezon, and Tarlac, and Pasay City, four thousand eight hundred pesos *per annum*; (4) that of the registers of deeds of the Provinces of Batangas, Camarines Sur, Capiz, Cavite, Davao, Ilocos Norte, Isabela, and Laguna, four thousand two hundred pesos *per annum*; (5) that of the registers of deeds of the Provinces of Albay, Antique, Bataan, Bohol, Cagayan, Camarines Norte, Cotabato, Ilocos Sur, La Union, Leyte, Mindoro Oriental, Misamis Oriental, Negros Oriental, Nueva Vizcaya, Sorsogon, Zambales, and Zamboanga del Norte, the Cities of Baguio, Dagupan, Lipa, Ormoc, San Pablo, and Zamboanga, three thousand six hundred pesos *per annum*; and (6) that of the registers of deeds of other cities and provinces, three thousand pesos *per annum*.

"The salary of the deputy register of deeds in the City of Manila shall be five thousand four hundred pesos *per annum*, and those of the deputy registers of deeds in other cities or provinces shall be three rates lower than those of their respective principals in the scale of salaries herein provided.

"From time to time but not oftener than once every five years the rates of salary of the registers of deeds, except in the City of Manila, shall be revised and fixed by the Secretary of Justice in accordance with the following schedule: (a) Six thousand pesos *per annum* for the registers of deeds whose yearly average collections during the last three years immediately preceding the year in which the revision is made have been seventy-five thousand pesos or more; (b) five thousand four hundred pesos *per annum* for those whose yearly average collections during the same period have been fifty thousand pesos or more but less than seventy-five thousand pesos; (c) four thousand eight hundred pesos *per annum* for those whose yearly average collections during the same period have been thirty thousand pesos or more but less than fifty thousand pesos; (d) four thousand two hundred pesos *per annum* for those whose yearly average collections during the same period have been fifteen thousand pesos or more but less than thirty thousand pesos; (e) three thousand six hundred pesos *per annum* for those whose yearly average collections during the same period have been five thousand pesos or more but less than fifteen thousand pesos; and (f) three thousand pesos *per annum* for those whose yearly average collections during the same period have been less than five thousand pesos. The rates of salary

so revised and fixed shall be included in the General Appropriation Act for the fiscal year next following the year in which the revision is made: *Provided, however,* That the salary of the register of deeds of the City of Baguio shall be fixed on the basis of the consolidated yearly average collections of the registries of the City of Baguio and the Subprovince of Benguet, and that the salary of the register of a province who is *ex officio* register of deeds for the city which is the capital of said province, shall likewise be fixed on the basis of the consolidated yearly average collections of the registries of said province and city.

“SEC. 201. *Discharge of duties of register of deeds in case of vacancy, etc.*—Until a regular register of deeds shall have been appointed for a city or province, or in case of vacancy in the office, or upon the occasion of the absence, illness, suspension, or inability of the register of deeds to discharge his duties, said duties shall be performed by the following officials, in the order in which they are mentioned below, unless the Secretary of Justice designate another official to act temporarily in the place:

“(a) For the city or province where there has been appointed a deputy register of deeds, by the said deputy register of deeds;

“(b) For the City of Baguio, by the city attorney, assistant city attorney, city treasurer or assistant city treasurer of Baguio;

“(c) For cities which are not provincial capitals, by the city attorney, assistant city attorney, city treasurer or assistant city treasurer;

“(d) For provinces in general, by the provincial fiscal, assistant provincial fiscal, provincial treasurer, or assistant provincial treasurer.

“In case of absence, disability or suspension of the register of deeds, without pay, or in case of vacancy in the position, the Secretary of Justice may, in his discretion, authorize the payment of an additional compensation to the official acting as register of deeds, such compensation with his actual salary shall not exceed the salary authorized for the position thus filled by him.”

SEC. 2. The sum of one hundred thousand pesos, or so much thereof as may be necessary, is hereby appropriated, out of any funds existing in the National Treasury not otherwise appropriated, to be made available for carrying into effect the salary increases provided for in this Act.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 16, 1954.

H. No. 1207

[REPUBLIC ACT No. 1139]

AN ACT TO APPROPRIATE FUNDS TO BEAR THE EXPENSES OF HOLDING THE SECOND NORTH PACIFIC REGIONAL AIR NAVIGATION MEETING AND THE FOURTH SESSION OF THE FACILITATION OF INTERNATIONAL AIR TRANSPORT DIVISION MEETING TO BE CONVENED BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION AT MANILA IN NINETEEN HUNDRED AND FIFTY-FIVE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby appropriated the sum of one hundred fifty thousand pesos to bear the expenses of holding the Second North Pacific Regional Air Navigation Meeting and the Fourth Session of the Facilitation of Air Transport Division Meeting to be convened by the International Civil Aviation Organization at Manila in nineteen hundred and fifty-five, and such other expenses as shall be necessary to carry into effect the purposes of this Act.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 1389

[REPUBLIC ACT No. 1140]

AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF BACUIT IN THE PROVINCE OF PALAWAN TO EL NIDO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the municipality of Bacuit, Province of Palawan, is hereby changed to El Nido.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 1915

[REPUBLIC ACT No. 1141]

AN ACT TO CONVERT THE SITIO OF MALITAM, IN THE BARRIO OF LIBJO, MUNICIPALITY OF BATANGAS, PROVINCE OF BATANGAS, INTO A BARRIO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Malitam in the barrio of Libjo, municipality of Batangas, Province of Batangas, is converted into a barrio to be known as the barrio of Malitam.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 17, 1954.

S. No. 83

[REPUBLIC ACT No. 1142]

AN ACT TO ESTABLISH A TRAINING CENTER FOR COMMUNITY SCHOOLS WITH THE TECHNICAL ASSISTANCE OF THE UNESCO TO BE LOCATED AT THE MUNICIPALITY OF BAYAMBANG, PROVINCE OF PANGASINAN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Secretary of Education is hereby authorized to establish and maintain with the technical assistance of the United Nations Educational, Scientific, and Cultural Organization, a training center for community schools

to be located at the Municipality of Bayambang, Province of Pangasinan.

SEC. 2. The sum of one hundred thousand pesos, or so much thereof as may be necessary for this purpose, is hereby authorized to be appropriated out of any fund of the National Treasury not otherwise appropriated.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 17, 1954.

S. No. 140

[REPUBLIC ACT No. 1143]

AN ACT TO PROVIDE FOR A MORE EFFECTIVE
ADMINISTRATION OF THE SECURITIES ACT
AND OTHER LAWS BY THE SECURITIES AND
EXCHANGE COMMISSION.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. In addition to the powers, duties and functions presently vested in it by existing laws, the Securities and Exchange Commission, hereinafter referred to as the Commission, shall have power:

(a) To punish summarily for contempt by a fine not exceeding two hundred pesos or by imprisonment not exceeding ten days, or both, any person guilty of misconduct in the presence of the Commissioner of Securities and Exchange or official thereof conducting a hearing or investigation or so near the same as to interrupt the proceeding before them, including cases in which a person present at a hearing or investigation held by either of the said Commissioner or official refuses to be sworn as a witness or to answer a question when lawfully required to do so. To enforce the provisions hereof, the Commission may, if necessary request the assistance of the Municipal Police for the execution of any order made by said Commissioner or official for the purpose.

(b) To penalize any violation of or non-compliance with any terms of conditions of any certificate, license, or permit issued by the Commission or of any order, decision, ruling or regulation thereof, by a fine of not exceeding two hundred pesos per day for every day during which such violation or default continues; and the Commission is hereby authorized and empowered to impose and collect such fine after due notice and hearing.

The fine so imposed shall be paid to the Government of the Philippines through the Commission, and failure to pay the fine within the time specified in the order or decision of the Commission shall be deemed good and sufficient reason for the suspension of the certificate, license or permit issued by the Commission until payment shall be made. In case the violation or default is committed by a corporation or association, the manager or the person who has charge of the management of the corporation or association and the officers or directors thereof who have ordered or authorized the violation or default shall be solidarily liable. Payment may also be enforced by appropriate action brought in a court of competent jurisdiction. The remedy herein provided shall not be a bar to, or affect any other remedy provided under existing laws

but shall be cumulative and additional to such remedy or remedies.

(c) In any investigation or hearing, by its order in writing, to cause the depositions of witnesses residing within or without the Philippines to be taken in the manner prescribed by the Rules of Court. Where witnesses reside in a place distant from Manila and it would be inconvenient and expensive for them to appear personally before the Commission, the Commission may also by proper order, commission any clerk of Court of First Instance, municipal judge or justice of the peace of the Philippines to take depositions of such witnesses in any case pending before the Commission. It shall be the duty of the official so commissioned, to designate promptly a date or dates for the taking of such depositions, giving timely notice to the parties, and on said date to proceed to take the depositions, reducing them to writing. After the depositions have been taken, the official so commissioned shall certify to the correctness of the depositions thus taken and forward the same as soon as possible to the Commission. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken. In case there are no stenographers available, the testimony shall be taken by such person as the clerk of court, municipal judge or justice of the peace may designate. The Commission may also commission a notary public to take the depositions in the manner herein provided.

(d) To conduct all hearings and investigations in accordance with the rules adopted by the Commission, and in performing the same, it shall not be bound by technical rules of legal evidence.

(e) To act on complaints for any violation of law, rule or regulation required to be enforced by it or for non-compliance of any term or condition of any certificate, license, or permit issued by it, free of charge. Where, however, the complaint or petition seeks the grant of affirmative relief, a nominal fee of ten pesos may be charged and collected by the Commission.

(f) Subject to the approval of the Department Head, to make such rules and regulations as may be necessary for the proper execution of all the laws administered by it.

(g) To require all corporations and associations whose certificates or permits to sell securities were lost during the last World War II, including those issued by the National Treasurer under the Blue Sky Law, to file new registration statements of such securities in accordance with such forms as may be provided by the Commission, for which it shall charge and collect a fee of one-twentieth of one per centum of the aggregate par or issued value of the securities.

SEC. 2. For the effective implementation of this Act, the position of Assistant in the Securities and Exchange Commission is hereby converted to that of Deputy Commissioner of the Securities and Exchange Commission, hereinafter known as Deputy Commissioner. The Deputy Commissioner shall be appointed by the President of the Philippines with the consent of the Commission on Appointments, and shall receive a compensation of ten thousand pesos per annum. The Deputy Commissioner shall act in the

absence, illness or incapacity of the Commissioner of Securities and Exchange and shall discharge such other functions and duties as may be entrusted to him by the latter. The Securities and Corporation Division of the Commission shall hereafter be known as the Legal and Enforcement Division. Said Division shall have a chief who shall be known as the Chief Legal Counsel and who shall receive a compensation of eight thousand four hundred pesos per annum, and eight attorneys, four of whom shall receive a compensation of five thousand four hundred pesos per annum each, and four, a compensation of four thousand five hundred pesos per annum each.

SEC. 3. The Commissioner, the Deputy Commissioner, the chiefs of division, and the attorneys of the Commission, shall have the power to administer oaths in all matters under the jurisdiction of the Commission.

SEC. 4. In addition to the sum already appropriated for the Commission under the General Appropriation Act for the fiscal year nineteen hundred and fifty-four and nineteen hundred and fifty-five, the sum of twenty-eight thousand one hundred eighty pesos, is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated for the purposes of this Act.

SEC. 5. All acts or parts of acts inconsistent with the provisions of this Act are hereby repealed.

SEC. 6. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 12

[REPUBLIC ACT No. 1144]

AN ACT APPROPRIATING FUNDS FOR LIGHTHOUSE STATIONS OF THE REPUBLIC OF THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The following sums, or so much thereof as may be necessary, are hereby appropriated out of the "Port Works Funds" that have accrued under Act Numbered Three thousand five hundred and ninety-two, as amended, not otherwise appropriated, to be spent by the Secretary of Public Works and Communications subject to the provisions of this Act for the purposes mentioned hereunder:

(a) For the construction, reconstruction, repair and improvement of installations in the following lighthouse stations, including the purchase of necessary materials and equipment:

1. Malinao (front), Albay—Repair and painting of keeper's dwelling and tower	₱2,000.00
2. Sula Port, Albay—Repair and painting of dwelling and construction of new kitchen wings	4,000.00
3. Ungay Point, Rapu-Rapu, Albay—Repair and painting of existing keepers' dwelling, kitchen, store room and tower	6,000.00

4. Nogas Island, Antique—Construction of new keepers' dwelling, repair of batteries' house and painting of tower.....	12,000.00
5. Mariveles, Bataan—Construction of new 32-ft. R. C. tower	5,000.00
6. Cape Santiago, Batangas—Repair and painting of existing structures	3,000.00
7. Malabrigo Point, Batangas—Repair of existing keepers' dwelling	4,000.00
8. Tagbilaran, Bohol—Repair of tower foundation	5,000.00
9. Cape Engaño, Cagayan—Completion and painting of existing structures	5,000.00
10. Linao Point, Cagayan—Completion or rehabilitation of structure	1,000.00
11. Pata Point, Cagayan—Repair of existing structures	10,000.00
12. Canimo Island, Camarines Norte—Repair of all structures on the station	5,000.00
13. Siaiat, Catanduanes—Completion or rehabilitation and construction of protection works	10,000.00
14. Capiz Jetty and Culasi Point, Capiz—Construction of tower and repair and painting of existing structures	12,000.00
15. Capitancillo, Cebu—Conversion of present storage room to generator room, and repair and painting of tower	4,000.00
16. Tanguingui, Cebu—Repair of all structures in the station	15,000.00
17. Cotabato, Cotabato—Erection of steel tower	2,000.00
18. Cape San Agustin, Davao—Construction of new keepers' dwelling and water tank	12,000.00
19. Cape Bojeador, Ilocos Norte—Conversion of present oil room to engineer room	10,000.00
20. Currimaos Point, Ilocos Norte—Construction of new 32-ft. R. C. tower	5,500.00
21. Baliguian, Iloilo—Repair and painting of existing keepers' dwelling, kitchen, toilet, bodega, tower, and flagpole	10,000.00
22. Calabazas Island, Iloilo—Construction of new 5,000 gal. R. C. water tank	2,000.00
23. Manigonigo Island, Iloilo—Painting of the steel tower	1,000.00
24. Siete Pecados Island, Iloilo—Repair and painting of keepers' dwelling, generator room, and kitchen	5,500.00
25. San Fernando Point, La Union—Conversion of present storage room into a batteries room	1,000.00
26. Baltazar Island, Marinduque—Repair of existing keepers' dwelling	1,000.00
27. Bugui Point, Masbate—Conversion of existing storage building into engine house and repair and painting of structures	3,000.00
28. Colorado Point, Masbate—Construction of new keepers' dwelling and repair and painting of existing tower	12,000.00

29. Jintotolo Island, Masbate—Conversion of present storage building into engine house	1,000.00
30. Matabao, Masbate—Construction of new keepers' dwelling and painting of existing structures	12,000.00
31. San Miguel, Masbate—Repair of dwelling and construction of new bodega	7,000.00
32. Ambulong, Mindoro Occidental—Conversion of present storage building into engine house and general repair work	4,000.00
33. Apo Reef, Mindoro Occidental—Conversion of one of the present kitchen rooms into engine room and painting of structures	2,000.00
34. Cape Calabite, Mindoro Occidental—Repair and painting of present structures	2,000.00
35. Golo Island, Mindoro Occidental—Construction of new keepers' quarters.....	12,000.00
36. Dumali Point, Mindoro Oriental—Repair and painting of existing installations	2,000.00
37. Escarseo Point, Mindoro Oriental—Construction of the keepers' quarters (dwelling building) and kitchen-dining room building	12,000.00
38. Apo Island, Negros Oriental—Construction of the keepers' quarters (dwelling-building) and kitchen-dining room building	12,000.00
39. Langoy Island, Palawan—Construction of new keepers' dwelling and power house	12,000.00
40. Balabac Island, Palawan—Repair and painting of existing installations	5,000.00
41. Espina Point, Palawan—Painting of structures	1,000.00
42. Manucan Island, Palawan—Construction of new keepers' quarters	12,000.00
43. Tubbataha Reef, Palawan—Construction of new keepers' quarters, repair of sea wall, and painting of tower	16,000.00
44. Cape Bolinao, Pangasinan—Repair of keepers' quarters, tower and toilet sheds	8,000.00
45. Apunan Point, Romblon—Conversion of present storage building into power house	1,000.00
46. Corcuera Point, Romblon—Repair and painting of dwelling and kitchen.....	3,000.00
47. Gorda Point, Romblon—Construction of new keepers' dwelling	10,000.00
48. Batag Island, Samar—Reconstruction of keepers' quarters	5,000.00
49. Cabilison Island, Samar—Construction of new quarters (dwelling) repair of kitchen shed and painting of tower	12,000.00
50. Capul Island, Samar—Reconstruction of present concrete building, kitchen shed, and storage building	8,500.00
51. Divinubo Island, Samar—Repair of present quarters and storage room	1,500.00
52. San Bernardino, Samar—Repair of present keepers' quarters	6,000.00
53. Suluan, Samar—Construction of new keepers' quarters	12,000.00
54. Bagato, Sorsogon—Repair and painting of kitchen and storeroom	3,000.00

55. Cagayan, Sulu—Repair of tower and dwelling	4,000.00
56. Pearl Bank, Sulu—Repair and painting of keepers' quarters	1,000.00
57. Saluag Island, Sulu—Construction of new keepers's dwelling	9,000.00
58. Capones Island, Zambales—Reconstruction of existing structures	15,000.00
59. La Monha, Zambales—Construction of new 32 ft. R. C. tower and batteries room....	5,000.00
60. Subic Bay, Zambales—Conversion of part of kitchen and storage room into engine room	1,000.00
61. Sibago, Basilan City—Construction of new quarters' and watchmans' shed.....	13,000.00
62. Malamawi, Basilan City—Repair of dwelling and construction of new R. C. tower	8,000.00
63. Pasig River, Manila—Construction of keepers' quarter	3,000.00
64. Corregidor, Manila—Repair of kitchen and dining room	12,000.00
	<hr/>
	P421,000.00

(b) For the emergency repair and reconstruction and the survey and investigation of lighthouse stations and other aids to navigation including the purchase of necessary materials and equipment and the payment of salaries, wages and sundry expenses of the lighthouse floating personnel in the central office at Manila, to be allotted by the Secretary of Public Works and Communications in accordance with the recommendations of the Lighthouse Board

166,000.00

(c) For the construction of new light-houses

50,000.00

Grand Total P637,000.00

SEC. 2. All sums appropriated under section one of this Act shall be released only after certification by the Secretary of Finance and the Auditor General to the President of the Philippines that there are sufficient Port Works Funds to warrant such release and that no amount appropriated under this Act shall be set up in the books of the General Auditing Office or otherwise made available for expenditure unless previously authorized by the President of the Philippines.

SEC. 3. The Secretary of Public Works and Communications is hereby authorized to spend for the completion of any of the projects above specified any saving that may be effected in the appropriation intended for any other of said projects: *Provided*, That no part of such saving shall be spent for salaries, wages or traveling expenses of office personnel.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 165

[REPUBLIC ACT No. 1145]

AN ACT CREATING THE PHILIPPINE COCONUT ADMINISTRATION, PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, AND PROVIDING FOR THE RAISING OF THE NECESSARY FUNDS FOR ITS OPERATION.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I.—*Establishment and Objectives*

SECTION 1. *Name, duration and domicile.*—A corporation is hereby created which shall be known as the Philippine Coconut Administration, hereafter called the PHILCOA, which shall be organized within sixty days after the approval of this Act and shall be under the direct supervision of the Office of Economic Coordination. It shall have its main office in the City of Manila, and such branches and agencies within or outside the Philippines, as may be necessary for the proper conduct of its business.

SEC. 2. *Purposes and objectives.*—The PHILCOA shall have the following purposes and objectives:

(a) To ensure the steady and orderly development of the coconut industry, and to stabilize and strengthen its position in the world markets;

(b) To promote the effective merchandising of copra, coconut oil, coconut products and by-products in the domestic and foreign markets so that those who are engaged in the coconut industry will be placed on a basis of economic security: *Provided, however,* That the PHILCOA may not engage in trading in any form without the prior approval of the President of the Philippines, which approval may be given only after prior recommendation of the National Economic Council;

(c) To improve the tenancy relations between coconut proprietors and tenants and the living conditions of laborers engaged in the coconut industry;

(d) To encourage the invention of useful machinery that will hasten the development of the coconut industry.

CHAPTER II.—*Powers*

SEC. 3. *Specific and general powers.*—In order to carry out the purposes mentioned in the preceding section, the PHILCOA shall have the following powers:

(a) To establish, keep, maintain and operate, or help establish, keep, maintain and operate, one central experiment station and such number of regional experiment stations in the coconut-producing areas of the Philippines as may be necessary to undertake extensive research in coconut culture, the control and eradication of coconut pests, the improvement of copra, the manufacture of coconut products and by-products, and the greater utilization of the coconut for new purposes: *Provided,* That the PHILCOA may utilize for the purposes herein set forth existing governmental research agencies;

(b) To purchase or fabricate such machineries, materials, equipments and supplies as may be necessary to prosecute successfully such researches and experimental works;

(c) To explore and expand the domestic and foreign markets for coconut products and by-products, to assure mutual benefit to consumers and producers, and to promote and maintain an efficient production of copra, oil and coconut by-products, by an effective coordination of the component elements of the coconut industry of the country;

(d) To allocate, with the approval of the President of the Philippines, sums of money in favor of any research institution, governmental or private, to undertake researches on any phase of the coconut industry for specified purposes: *Provided*, That exclusive ownership rights to the results of such research shall accrue to the PHILCOA as provided for under section fourteen;

(e) To regulate the marketing and exportation of copra by establishing standards for domestic trade and export and, pursuant hereto, to conduct an inspection through its agents of all copra proposed for export to determine if they conform to the standards established;

(f) To help planters and processors organize themselves into associations and cooperatives with a view to giving them greater control in the marketing of their products, and to help them obtain more credit facilities;

(g) To enter, make and execute contracts of any kinds as may be necessary or incidental to the attainment of its purposes; and

(h) Generally, to exercise all the powers necessary to attain the purposes for which it is organized.

SEC. 4. *Special authority to undertake projects and incur debts.*—Upon the recommendation of the National Economic Council and with the approval of the President of the Philippines, the PHILCOA may directly engage in such projects and undertakings as may be deemed vital or necessary to the early attainment of its general objective; and for the purpose of financing such projects, the PHILCOA may borrow the necessary funds from any financial institution subject to existing rules and regulations: *Provided*, That the total loan outstanding at any one time shall not exceed ten million pesos.

CHAPTER III—*Governing Body*

SEC. 5. *Composition and appointment.*—All corporate powers of the PHILCOA shall be vested in, and exercised by a Board of Administrators consisting of five members to be appointed by the President with the consent of the Commission on Appointments, three of whom shall be coconut planters: *Provided*, That no person appointed to this board may serve as director of more than two government or semi-government corporations. The President shall designate from among the members of the Board its Chairman.

SEC. 6. *Tenure and compensation.*—The members of the Board shall serve as designated by the President of the Philippines in their respective appointments for a term of four years, but any person to fill a vacancy shall serve only for the unexpired term of the member whom he succeeds. The Chairman shall receive a salary of twelve thousand pesos *per annum* and each member a *per diem* of twenty-five pesos for every meeting actually attended: *Provided*, That no member shall earn more than

one hundred pesos a month in *per diems*: *Provided, further*, That if the member is a public official, he shall not be entitled to any *per diem*.

SEC. 7. *Administrative powers and duties of the Board of Administrators*.—The Board of Administrators shall have the following powers and duties:

(a) To prescribe, amend, modify, or repeal by-laws, rules and regulations, not inconsistent with the provisions of this Act, governing the manner in which the general business of the PHILCOA shall be exercised;

(b) To fix the compensation of the officers and employees of the PHILCOA;

(c) To approve the annual and/or such supplemental budgets of the PHILCOA which may be submitted to it by the management from time to time;

(d) To carry on the business of the PHILCOA as provided by law; and

(e) To perform such other duties as may be assigned to it by the President of the Philippines.

SEC. 8. *Suspension and removal of Administrators*.—Any member of the Board of Administrators may, for cause, be suspended or removed by the President of the Philippines.

CHAPTER IV.—*Management*

SEC. 9. The management of the PHILCOA shall be vested in the Chairman of the Board of Administrators.

SEC. 10. *Powers and duties of the Chairman of the Board*.—The Chairman of the Board shall have the following powers and duties:

(a) To direct and manage the affairs and business of the PHILCOA on behalf of the Board of Administrators and subject to its control and supervision;

(b) To submit for approval within sixty days after the close of each fiscal year an annual report to the President of the Philippines and to each House of Congress, through the Board of Administrators;

(c) To appoint and fix the number with the approval of the Board of Administrators, of such subordinate officials and personnel as may be necessary for the proper discharge of the duties and functions of the PHILCOA, and, with the approval of the Board, to remove, suspend, or otherwise discipline, for just cause, any subordinate employee of the PHILCOA; and

(d) To perform such other duties as may be assigned to him by the Board of Administrators from time to time.

CHAPTER V.—*Appointments and Promotions*

SEC. 11. *Basis*.—In the appointment and promotion of officers and employees, civil service eligibility, merit and efficiency shall serve as the basis. Any person appointed in violation of this prohibition shall be removed.

SEC. 12. *Application of Civil Service Law and Regulations*.—All officers and employees of the PHILCOA shall be subject to the Civil Service Law, rules and regulations, except those whose positions may, upon recommendation of the Board of Administrators, be declared by the President of the Philippines as policy-determining, or highly technical in nature.

CHAPTER VI.—*Capitalization and Special Fund
of the PHILCOA*

SEC. 13. *Capitalization.*—To raise the necessary funds to carry out the provisions of this Act and the purposes of the PHILCOA, there shall be levied a fee of ten centavos for every one hundred kilos of desiccated coconut, to be paid by the desiccating factory, coconut oil to be paid by the oil mills, and copra to be paid by the exporters, dealers or producers as the case may be. This service fee shall be collected by the PHILCOA under such rules and regulations that it shall promulgate: *Provided, however,* That pending the collection of service fee, the PHILCOA is hereby authorized to borrow from any banking institution the sum of fifty thousand pesos to be used in the organization and maintenance of this office.

SEC. 14. *Special Fund.*—The proceeds of the foregoing levy shall be set aside to constitute a special fund to be known as the "Coconut Development Fund," which shall be available exclusively for the use of the PHILCOA. All the income and receipts derived from the special fund herein created shall accrue to, and form part of, the said fund to be available solely for the use of the PHILCOA.

CHAPTER VII.—*Transfer of Functions from other Offices*

SEC. 15. The functions of the Bureau of Commerce under Commerce Administrative Order Numbered Two, dated January sixteen, nineteen hundred and forty-eight, relating to the standardization and inspection of copra, and the functions of the Sugar Quota Office in the allocation of coconut oil exports under Executive Order Numbered Ninety-four, dated October fourth, nineteen hundred and forty-seven, are hereby transferred to the PHILCOA. The personnel in these offices in charge of carrying out the foregoing functions and who are duly qualified in the civil service shall be transferred to the PHILCOA and those who do not possess civil service eligibility shall be retired in accordance with existing laws and regulations.

CHAPTER VIII.—*Audit*

SEC. 16. The Auditor General shall appoint a representative who shall be the Auditor of the PHILCOA. The number and salaries of the Auditor and such personnel as may be needed to assist him shall be determined by the Auditor General with the consent of the Board of Administrators. In case of disagreement, the matter shall be submitted to the President of the Philippines whose decision shall be final. Said salaries and other expenses of maintaining the Auditor's office shall be paid by the PHILCOA.

CHAPTER IX.—*Miscellaneous Provisions*

SEC. 17. *Applicability of the Corporation Law.*—The provisions of the Corporation Law which are not inconsistent with the provisions of this Act, shall be applicable to the PHILCOA created thereunder.

SEC. 18. No official or employee of the Corporation shall directly or indirectly be financially interested in any contract with the corporation or in any special privilege granted by said Corporation during his term of office.

Any violation of this prohibition shall be punished by dismissal from office and by a fine of not more than one thousand pesos or imprisonment of not more than one year, or both, at the discretion of the court.

SEC. 19. *Repeal or modifications.*—Republic Act Numbered Four hundred seventy-one providing for the transfer to the NACOCO of fifty *per centum* of the fees collected from the Copra Standardization and Inspection Service is hereby repealed: *Provided*, That all amounts collected under said Act which are still unreleased upon approval hereof shall be turned over to the PHILCOA. All acts, executive orders, administrative orders, and proclamations or parts thereof inconsistent with any of the provisions of this Act are likewise repealed or modified accordingly.

SEC. 20. *Constitutionality.*—If any provisions of this Act shall be held unconstitutional, the other provisions shall not thereby be affected.

SEC. 21. *Effectivity.*—This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 945

[REPUBLIC ACT No. 1146]

AN ACT AUTHORIZING THE GOVERNMENT TO SELL FERTILIZERS TO RICE AND CORN PRODUCERS AND FARMERS AT ACTUAL COST, CONSTITUTING THE DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES, FOR THIS PURPOSE, AS THE AGENCY TO TAKE CHARGE OF THE SALE AND DISTRIBUTION OF FERTILIZERS AND TO IMPLEMENT THE PROVISIONS OF THIS ACT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Declaration of policy.*—It is hereby declared to be the national policy during the time that this Act is in force to increase the production of rice and corn at a minimum cost of operation, this to be made possible by the Government offering every possible encouragement and incentive to rice and corn producers and farmers and to utilize every possible means which will implement the rehabilitation and peace and order program of the Government.

SEC. 2. The Government is hereby authorized to sell at actual cost fertilizers to palay and corn producers and farmers.

SEC. 3. The Department of Agriculture and Natural Resources is hereby designated to take charge of the sale and distribution of fertilizers, granting to the said department the power to promulgate rules and regulations subject to the provisions of this Act, and the authority to vest the powers and duties prescribed by this Act in any of its divisions or sections as it may deem wise.

SEC. 4. The sum of six million pesos is hereby appropriated out of any funds in the National Treasury not otherwise appropriated, as a revolving fund for the purchase and sale of fertilizers.

SEC. 5. This Act shall take effect upon its approval.
Approved, June 17, 1954.

H. No. 1500

[REPUBLIC ACT NO. 1147]

AN ACT TO PROVIDE FOR THE HOLDING OF CERTAIN CIVIL SERVICE EXAMINATIONS ONCE EVERY TWO YEARS AND AUTHORIZING THE APPROPRIATION OF FIFTY THOUSAND PESOS THEREFOR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Within one hundred twenty days from the date of release of the fund herein authorized to be appropriated and at least once every two years thereafter, the Bureau of Civil Service shall give first and second grade and regular and promotional junior teachers civil service examinations in the City of Manila and in such other places as the Commissioner of Civil Service may determine, the results of which shall be released within nine months from the date of each examination.

SEC. 2. The sum of fifty thousand pesos is authorized to be appropriated, out of any funds in the National Treasury not otherwise appropriated, to carry out the purpose of this Act. Thereafter, the necessary funds for the same purpose shall be provided in the annual General Appropriation Act.

SEC. 3. This Act shall take effect upon its approval.
Approved, June 17, 1954.

H. No. 2036

[REPUBLIC ACT NO. 1148]

AN ACT TO AMEND SECTION TWENTY-FOUR OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND SIXTY-SIX, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section twenty-four of Commonwealth Act Numbered Four hundred and sixty-six, as amended, is hereby further amended to read as follows:

"SEC. 24. *Rate of tax on corporations.*—There shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding taxable year from all sources by every corporation organized in, or existing under the laws of the Philippines, no matter how created or organized, but not including duly registered general co-partnerships (*compañías colectivas*), a tax upon such income equal to the sum of the following:

"Twenty *per centum* upon the amount by which such total net income does not exceed one hundred thousand pesos; and

"Twenty-eight *per centum* upon the amount by which such total net income exceeds one hundred thousand pesos; and a like tax shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding taxable year from all sources within the Philippines by every corporation organized, authorized, or existing under the laws of any foreign country: *Provided, however,* That Building and Loan Associations operating as such in accordance with sections one hundred and seventy-one to one hundred and ninety of the Corporation Law, as amended, as well as private educational institutions, shall pay a tax of twelve *per centum* and ten *per centum*, respectively, on their total net income: *And provided, further,* That in the case of dividends received by a domestic or resident foreign corporation from a domestic corporation liable to tax under this Chapter or from a domestic corporation engaged in new and necessary industry, as defined under Republic Act Numbered Nine hundred and one, only twenty-five *per centum* thereof shall be returnable for purposes of the tax imposed by this section."

SEC. 2. The provisions of this Act shall apply to income received from January first, nineteen hundred and fifty-four.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 2419

[REPUBLIC ACT No. 1149]

AN ACT INCREASING THE LIMIT OF THE BONDED INDEBTEDNESS OF THE METROPOLITAN WATER DISTRICT FROM TWENTY MILLION PESOS TO THIRTY MILLION PESOS, AMENDING FOR THE PURPOSE SUBSECTION (m) OF SECTION TWO OF ACT NUMBERED TWENTY-EIGHT HUNDRED THIRTY-TWO, AS AMENDED.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled.

SECTION 1. Subsection (m) of section two of Act Numbered Twenty-eight hundred thirty-two, as amended by Commonwealth Act Numbered Four hundred thirty-eight, is further amended to read as follows:

"(m) When essential to the proper administration of its corporate affairs or necessary for the proper transaction of its business or to carry out the purposes for which it was organized, to contract indebtedness and issue bonds, subject to the approval of the Secretary of Finance. The bonded indebtedness of the District, of all classes, shall not at any time exceed thirty million pesos, and the issue thereof shall be subject to the conditions set forth in section five of this Act, as amended, and shall be limited to revenue-producing projects: *Provided,* That part of the amount borrowed shall be spent for sinking underground the water main pipes in Manila."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 1864

[REPUBLIC ACT NO. 1150]

AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES DURING THE PERIOD FROM JULY FIRST, NINETEEN HUNDRED AND FIFTY-FOUR TO JUNE THIRTIETH, NINETEEN HUNDRED AND FIFTY-FIVE, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. **Appropriation of funds.**—The following sums, or so much thereof as may be necessary, are appropriated out of any funds in the Philippine Treasury not otherwise appropriated for the operation of the Government of the Republic of the Philippines during the period from July first, nineteen hundred and fifty-four to June thirtieth, nineteen hundred and fifty-five, except where otherwise specifically provided:

[Itemized portions on salaries and wages and other expenditures omitted for lack of space]

H. No. 2229

S. No. 198

[REPUBLIC ACT NO. 1151]

AN ACT CREATING THE LAND REGISTRATION COMMISSION, AND AUTHORIZING AND APPROPRIATING THE NECESSARY FUNDS THEREFOR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. **Land Registration Commission.**—In order to have a more efficient execution of the existing laws relative to the registration of lands, there is created a commission to be known as the Land Registration Commission, under the executive supervision of the Secretary of Justice. Said Commission shall have supervision and control over all Registers of Deeds, as well as the clerical and archival system of the Courts of First Instance throughout the Philippines in the exercise of the duties and functions conferred upon them with reference to the registration of lands, and shall constitute a central repository of original records in matters connected with land titles and the registration thereof.

SEC. 2. **Chief and Assistant Chief of the Commission.**—The Land Registration Commission shall have a chief and an assistant chief, to be known, respectively, as the Commissioner and the Assistant Commissioner of Land Registration who shall be appointed by the President with the consent of the Commission on Appointments. The Commissioner shall be a duly qualified member of the Philippine Bar with at least five years of practice in the legal profession, and shall be entitled to the same compensation, emoluments and privileges as those of a Judge

of the Court of First Instance. The Assistant Commissioner, who shall possess the same qualifications as those required of the Commissioner, shall receive compensation at the rate of seven thousand two hundred pesos *per annum*. He shall act as Commissioner of Land Registration during the absence or disability of the Commissioner, and when there is a vacancy in the position until another person shall have been designated or appointed in accordance with law. The Assistant Commissioner shall also perform such other functions as the Commissioner may assign to him.

SEC. 3. *General functions of the Commission.*—The Commissioner of Land Registration shall take over all the powers and functions as are now conferred upon the Chief of the General Land Registration Office, which position is hereby abolished, as well as the powers and functions of the Judge of the Fourth Branch of the Court of First Instance of Manila, in all matters heretofore submitted to it for resolution under section two hundred of the Administrative Code. The Commissioner shall likewise exercise executive supervision over all the personnel of the Courts of First Instance throughout the Philippines with respect to the discharge of duties and functions conferred by law upon such personnel in relation to registration of lands, and all clerks of said courts acting with respect to the same shall be deemed to be under the Commissioner. It shall be the duty of said clerks of court to attend, either in person or by deputy, all sessions of their respective courts wherein proceedings relative to registration of lands are held, to keep minutes of such proceedings, and to perform with reference thereto all the duties and functions of clerks of court. The Commissioner of Land Registration shall designate an officer under him to act as clerk of the fourth branch of the Court of First Instance of Manila in matters relating to the registration of land and perform in connection therewith all the duties and functions of clerk of court.

The Commissioner of Land Registration shall see to it that all orders, decisions, and decrees promulgated relative to the registration of lands are properly attended to and given due course, for which purpose he shall issue all needful rules and regulations, subject to the approval of the Secretary of Justice.

SEC. 4. *Reference of doubtful matters to Commissioner of Land Registration.*—When the Register of Deeds is in doubt with regard to the proper step to be taken or memorandum to be made in pursuance of any deed, mortgage, or other instrument presented to him for registration, or where any party in interest does not agree with the Register of Deeds with reference to any such matter, the question shall be submitted to the Commissioner of Land Registration either upon the certification of the Register of Deeds, stating the question upon which he is in doubt, or upon the suggestion in writing by the party in interest; and thereupon the Commissioner, after consideration of the matter shown by the records certified to him, and in case of registered lands, after notice to the parties and hearing, shall enter an order prescribing the step to be taken or memorandum to be made. His decision in such cases shall be conclusive and binding upon all Registers

of deeds: *Provided, further*, That when a party in interest disagrees with the ruling or resolution of the Commissioner and the issue involves a question of law, said decision may be appealed to the Supreme Court within thirty days from and after receipt of the notice thereof.

SEC. 5. *Transfer of functions, records, personnel, appropriation and properties.*—All the functions, records, personnel, equipment, unexpended appropriations and other properties of the General Land Registration Office are hereby transferred to the Land Registration Commission.

SEC. 6. *Repealing clause.*—All existing laws or parts thereof as may be inconsistent with the provisions of this Act are hereby repealed.

SEC. 7. The sum of two million pesos, or so much thereof as may be necessary, is hereby authorized and appropriated, out of any funds in the National Treasury not otherwise appropriated, to carry out the purposes of this Act, for the fiscal year ending June thirty, nineteen hundred and fifty-five, broken down as follows.

Salaries and wages	P1,542,040.00
Sundry expenses	226,960.00
Furniture and equipment	231,000.00

The same sum or so much thereof as may be necessary shall be included yearly in the appropriation acts for subsequent fiscal years.

SEC. 8. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 2514

[REPUBLIC ACT NO. 1152]

AN ACT APPROPRIATING THE SUM OF ONE MILLION ONE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED FORTY-TWO PESOS FOR THE MAINTENANCE AND OPERATION OF SIX PATROL GUNBOATS MEDIUM PROGRAMMED FOR DELIVERY BY THE UNITED STATES GOVERNMENT TO THE PHILIPPINE GOVERNMENT DURING THE YEAR NINETEEN HUNDRED AND FIFTY-FOUR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby appropriated out of any funds in the Philippine Treasury not otherwise appropriated an additional sum of one million one hundred eleven thousand seven hundred forty-two pesos for the Philippine Navy for the maintenance and operation of six patrol gunboats medium programmed for delivery by the United States Government to the Philippine Government during the year nineteen hundred fifty-four, as hereunder specified:

SALARIES AND WAGES

1. Pay and allowances of officers and enlisted men; base pay, sea duty pay at ten per cent of base pay; rental and commutation of quarters, and commutation and/or subsistence allowance of officers and enlisted

men; longevity pay for officers, additional pay for specialists under section eighty-nine of the National Defense Act, as amended; reenlistment bonus, and clothing allowance of enlisted men: *Provided*, That the basic subsistence allowance shall be paid at the rate of one peso each per day and the additional subsistence allowance shall be paid when on sea duty at the rate of two pesos daily for each officer, one peso for each enlisted man: *Provided, further*, That officer-patients and enlisted men-patients when confined in hospitals and dispensaries shall be paid their subsistence allowance at the rate of two pesos each per day: *And provided, finally*, That the Minimum Wage Law shall be implemented through the grant of salary differential to increase the total compensation of apprentice seamen to one thousand four hundred and forty pesos *per annum*, seamen second class to one thousand four hundred and seventy pesos *per annum* and seamen first class to one thousand five hundred pesos *per annum*. P469,568.00

SUNDRY EXPENSES

2. Consumption of supplies and materials peculiar to naval operations, to include quartermaster, ordnance, engineering, medical, dental, signal, general stores, fuel, water, lubricants, grease and ship supplies: *Provided*, That Philippine Navy watercrafts shall be used only by military personnel and their immediate dependents, and by government officials and employees on official business: *Provided, further*, That all other persons including guests of such military personnel and their dependents using Philippine Navy watercraft shall pay for such use before the trip at the rate charged by commercial steamship lines: *And provided, finally*, That the limitations herein provided shall not apply to the trips of any organization or agency to extend relief in cases of disasters or calamities P540,174.00

3. For the drydocking and repairs of six patrol gunboats medium 102,000.00

Total P1,111,742.00

SEC. 2. Any portion of the appropriation herein appropriated remaining unexpended after June thirty, nine-hundred fifty-five shall revert to the unappropriated surplus in the National Treasury, and the fund necessary to maintain and operate the aforementioned six patrol gunboats medium in succeeding fiscal years shall be included in the General Appropriation Acts for said fiscal years.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 2530

[REPUBLIC ACT No. 1153]

AN ACT TO AMEND PARAGRAPH TWENTY-TWO OF SECTION EIGHT OF THE PHILIPPINE TARIFF ACT OF NINETEEN HUNDRED AND NINE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Paragraph twenty-two of section eight of the Philippine Tariff Act of Nineteen hundred and nine is amended to read as follows:

"22. (a) Tars, pitches, and tar oils, not otherwise provided for; mineral oils, crude or refined (except gasoline, naphtha, and other similar products of distillation), including those of illumination, lubrication, fuel, or solvents, vaseline (except when compounded with other substances); axle grease of all kinds; asphaltums; carbolineum and similar compounds; gross weight, one hundred kilos, twenty-five cents.

"(b) Gasoline, naphtha, and other similar products of distillation, gross weight, one hundred kilos, fifty cents.

"*Provided*, That no article classified under clause (a) of this paragraph shall pay a less rate of duty than ten per centum, *ad valorem*.

"*Provided, further*, That no article classified under clause (b) of this paragraph shall pay a less rate of duty than twenty per centum, *ad valorem*.

"*Provided, finally*, That though imported under a name referable to clause (a) of this paragraph, paraffin, or other similar products, shall be classified under paragraph eighty-three of this Act."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 1463

[REPUBLIC ACT No. 1154]

AN ACT TO AMEND CERTAIN ITEMS IN REPUBLIC ACT NUMBERED NINE HUNDRED AND TWENTY, REGARDING PUBLIC WORKS PROJECTS FOR THE PROVINCE OF NEGROS ORIENTAL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Items 37(a), 37(b), 37(c), and 37(d), for the Province of Negros Oriental, paragraph (e), Title B, section one of Republic Act Numbered Nine hundred and twenty, are amended to read as follows:

"(a) For the construction of the Municipal Building, Tanjay P30,000.00"

"(b) For the construction of the Municipal Building, Sibulan 20,000.00"

SEC. 2. Item 36(b), for the same province, paragraph (a), Title C, section one of the same Act, is amended to read as follows:

"(c) Dumaguete-Talobo Road P20,000.00"

SEC. 3. Item 61, for the same province, paragraph (a), Title F, section one of the same Act, is amended to read as follows:

"61. City of Dumaguete River Control,
Negros Oriental P35,000.00"

SEC. 4. Item 35, for the same province, paragraph, (b), section two of the same Act, is amended to read as follows:

"35. Guihulngan, Negros Oriental P20,000.00"

SEC. 5. This Act shall take effect upon its approval.

Approved, June 17, 1954.

H. No. 1738

[REPUBLIC ACT No. 1155]

AN ACT AUTHORIZING THE APPROPRIATION OF THE SUM OF SIXTEEN MILLION NINE HUNDRED SIXTEEN THOUSAND SIX HUNDRED EIGHTY-THREE PESOS FOR SALARY ADJUSTMENTS AND AUTOMATIC SALARY INCREASES OF PUBLIC SCHOOL OFFICIALS, TEACHERS AND OTHER SCHOOL PERSONNEL OF THE BUREAU OF PUBLIC SCHOOLS AND WELFAREVILLE TEACHERS IN ACCORDANCE WITH THE PROVISIONS OF REPUBLIC ACT NUMBERED EIGHT HUNDRED FORTY-TWO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of sixteen million nine hundred sixteen thousand six hundred eighty-three pesos, or so much thereof as may be necessary, is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated, for salary adjustments and automatic salary increases of public school officials, teachers and other school personnel of the Bureau of Public Schools and Welfareville teachers in accordance with the provisions of Republic Act Numbered Eight hundred forty-two. Said sum shall thereafter be included in the annual General Appropriation Act.

SEC. 2. This Act shall take effect on July first, nineteen hundred and fifty-four.

Approved, June 17, 1954.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

PROVINCIAL CIRCULAR
(Unnumbered)

August 3, 1954

PERMITS FOR WORK ON SUNDAYS AND LEGAL HOLIDAYS UNDER REPUBLIC ACT NO. 946.

To all Provincial Governors and City Mayors:

For the information and guidance of all concerned, there is quoted hereunder a letter received in this Office from the Secretary of Labor, dated July 2, 1954, regarding the issuance of permits for work on Sundays and legal holidays under Republic Act No. 946, commonly known as the Blue Sunday Law:

"This Department has been informed that some provincial, city and municipal officials have issued permits for work on Sundays and legal holidays under Republic Act No. 946, commonly known as the Blue Sunday Law. Inasmuch as provincial officials are not authorized to issue such permits, and inasmuch further as city and municipal mayors, councilors and *tenientes del barrio* may grant such permits only in cases of public calamities such as earthquakes, conflagrations, etc., it will be appreciated if provincial and municipal officials throughout the country could be informed accordingly.

"It should be stated in this connection that the issuance of permits by officials who are not authorized by law to do so is not only inimical to the interests of workers for whose protection the law has been enacted, but also operates to confuse the public.

** * * * *

It is urged that the contents of this circular be transmitted to all municipal mayors and other officials in your respective provinces.

FRED RUIZ CASTRO
Executive Secretary

CIRCULAR

August 3, 1954

PROVINCIAL, CITY AND MUNICIPAL COMMITTEES—1954 NATIONAL FUND AND EDUCATIONAL DRIVE, PHILIPPINE TUBERCULOSIS SOCIETY.

To all Provincial Governors and City Mayors:

As stated in the Unnumbered Provincial Circular, dated July 14, 1954, of the Executive Secretary, the National Fund and Educational Drive of the Philippine Tuberculosis Society for this year covers the period from August 19th to September 30th. Having been designated as Chairman of the Provincial, City and Local Governments Division of the Drive, I cannot but unhesitatingly accept this designation with the knowledge that you and all other local officials would, as in previous years, willingly and unfailingly support and cooperate in this humanitarian work.

The campaign in the different provinces, chartered cities and municipalities will be under the charge of Provincial, City and Municipal Committees. It is, therefore, suggested that said committees be formed as soon as possible, following the Organization Plan of last year's campaign:

Provincial Committees

1. Honorary Chairman—Provincial Governor
2. Member and Treasurer—Provincial Treasurer
3. Secretary—To be appointed by the Committee
4. Members—District Health Officer
District Engineer
Division Superintendent of Schools
Provincial Auditor
Provincial Internal Revenue Agent
Presidents of various civic organizations
Several prominent citizens of the province

City Committees

1. Honorary Chairman—City Mayor
2. Member and Treasurer—City Treasurer
3. Secretary—To be appointed by the Committee
4. Members—President or presiding officer of the Municipal Board or Council
City Engineer
City Superintendent of Schools
City Health Officer
City Auditor
City Internal Revenue Agent
Chief of Police
Heads of civic organizations
Prominent citizens of the city

Municipal Committees

1. Honorary Chairman—Municipal Mayor
2. Member and Treasurer—Municipal Treasurer
3. Secretary—To be appointed by the Committee
4. Members—Supervisor or principal of public schools

Director or head of private school or schools, if any

President of Sanitary Division

Puericulture Center physician or nurse

Heads of civic organizations

Prominent citizens

In the provinces, cities and municipalities where there are a number of Chinese or other foreign nationals residing, a leading member thereof may be appointed as member of the committee who will act as the chairman of the group which will take exclusive charge of soliciting contributions from their respective communities.

For this year's campaign, the Provincial, City and Local Governments Division has been given an allotment to cover. For that province/city an allocation of P——— has been fixed by the General Chairman. It is expected that each and every Provincial, City or Municipal Committee will exert its utmost effort to make possible the collection of its respective quota, and the collections should be remitted directly to the Philippine Tuberculosis Society, 1893 Rizal Avenue, Manila, furnishing the undersigned with copy of the letter accompanying each remittance for our information.

It may not be amiss to state here that thru information, there are still unremitted collections for the previous years' campaign in certain provinces or cities. It is requested that the official concerned be urged to look into this matter with a view to closing the previous years' collections.

All municipal mayors should be duly advised of the contents hereof and given instructions accordingly.

SOFRONIO C. QUIMSON
*Technical Assistant & In-Charge
Civil Affairs
and*

*Chairman, Provincial, City and
Local Governments Division
1964 National Fund and Education Drive
Philippine Tuberculosis Society*

PROVINCIAL CIRCULAR
(Unnumbered)

August 11, 1954

UNDELIVERED MAIL TO APPLICANTS UNDER THE WAR CLAIMS ACT OF 1948, AS AMENDED.

To all Provincial Governors and City Mayors:

For the information and such assistance as may be given with a view of locating the persons in-

dicated herein, there is quoted hereunder the following letter, dated August 9, 1954, received in this office from Mr. Thomas C. Fisher, Manila Representative of the Foreign Claims Settlement Commission of the United States (formerly War Claims Commission), USVA Building, Escolta, Manila:

"Attached please find copy of Press Release which has been distributed to all newspapers and radio stations.

"Your cooperation will be greatly appreciated in locating persons whose name appear in the list. Additional list of names will be forwarded to you from time to time.

"I call your attention to the fact that after August 13, 1954, this office will be closed and all undelivered mail will be sent to Foreign Claims Settlement Commission of the United States, Washington 25, D. C., through Mr. Benjamin Book, Liaison Section, American Embassy, here in Manila.

The press release mentioned therein states that even though the official claim blank may not reach the prospective claimants in time for the applicant to fill it out and airmail it on or before August 1, 1954, the Foreign Claims Settlement Commission of the United States in Washington possibly may consider the written request for the claim blank as an informal filing of the claim, if the office records of Mr. Thomas C. Fisher, its Manila Representative, show that said written request for the official form was received or postmarked prior to August 1, 1954. Those who received the official claim blank after August 1, 1954, are urged, as stated also in said press release, to immediately fill it out and promptly airmail the same to the Foreign Claims Settlement Commission of the United States, Washington 25, D. C., U. S. A.

Enclosed is copy of the press release in question.

It is urged that the contents hereof be given the widest publicity possible.

ENRIQUE C. QUEMA
Assistant Executive Secretary

* * *

PRESS RELEASE

NEWS

August 6, 1954

"Mr. Thomas C. Fisher, Manila Representative of the Foreign Claims Settlement Commission of the United States, announced that a number of pieces of mail containing WCC Form 612, May 1954, addressed to eligible applicants under the War Claims Act of 1948, as amended, have been returned to his office for the reason that said applicants could not be located at their given addresses or that their given address is unknown. Efforts to get their present and correct address have proved to be of no avail.

"Even though the official claim blank may not reach the prospective claimants in time for the

applicant to fill it out and airmail it on or before August 1, 1954, Mr. Fisher stated that when his office records show that the written request for the official form was received or postmarked prior to August 1, 1954, the Foreign Claims Settlement Commission of the United States in Washington, possibly may consider the written request for the claim blank as an informal filing of the claim.

"Those who received the official claim blank after August 1, 1954, are urged to immediately fill it out and promptly airmail the same to Foreign Claims Settlement Commission of the United States, Washington 25, D. C., U.S.A.,

"There are hundreds of pieces of mail from Washington containing official claim blank WCC Form 612, May 1954, and others containing letters and important communications for claimants, which mail has not been delivered and has been returned to this office.

"Mr. Fisher urges the following persons to personally and immediately call for their undelivered mail at his office on the Mezzanine floor, USVA Building, Escolta, Manila:

Address not clear—

Barlis, Macario M., San Lorenzo, Republic of the Philippines.

Brey, Luis B., 1 Real Street, Tagpoan, Tubon, Philippines.

Cruz, Julian De Jesus, Del Rosario, Philippines.
Huertas, Felix (Mrs.), Santa Cruz, Manila, Philippines.

Ricohermoso, Juliana R. Vda. de (Mrs.), Santa Cruz, Philippines.

(See attached list for that province/city)

"Any information as to the present address of any of the above persons will be appreciated.

"Mr. Fisher said that the office of the Foreign Claims Settlement Commission of the United States, formerly known as War Claims Commission, will definitely close on August 13th, 1954, and all undelivered mail in his hands will then be forwarded to Washington.

"Those who are interested in receiving their mail must call or communicate with Thomas C. Fisher, Manila Representative, Foreign Claims Settlement Commission of the United States, U. S. Veterans Administration Building, Escolta, Manila, on or before August 13, 1954, at 4:00 p.m."

PROVINCIAL CIRCULAR
(Unnumbered)

August 12, 1954

CLAIMS FOR COMPENSATION UNDER REPUBLIC ACT NO. 784, OF POLICEMEN AND FIREMEN OF A MUNICIPALITY WHO DIE OR ARE DISABLED IN LINE OF DUTY.

To all Provincial Governors:

As stated in the Unnumbered Provincial Circular of this office, dated January 25, 1954, the share corresponding to one-half of the benefits bestowed by Republic Act No. 784 may be paid by the municipality concerned, provided funds have been appropriated for the purpose by the municipal council concerned.

As regards the other half of said benefit or share of the National Government, this office will authorize the payment thereof upon submittal of the following papers:

In case of death:

1. Copy of formal report or detailed narration of the facts and circumstances of death, showing particularly the date, cause and place of the incident;
2. Satisfactory proof showing the heir or heirs or next of kin in the order of preference established in section 2, Chapter 3, Title IV, Book III of the Civil Code of the Philippines (Republic Act No. 386);
3. Comment of the Provincial Auditor.

In case of disability (total or partial):

1. Copy of formal report or detailed narration of the facts and circumstances leading to the disability, total or partial, showing particularly the date, cause and place of the incident;
2. Diagnosis or physical examination of a competent government physician;
3. Comment of the Provincial Auditor.

Claim papers, whether for death or disability, should be coured through the Provincial Governor concerned for recommendation which should be couched in clear and unequivocal terms showing why, in his opinion, the case comes under the provisions of Republic Act No. 784, or if not, why not.

In submitting to this office any claim for compensation on account of total or partial disability, the pertinent provisions of Act No. 3428, known as the "Workmen's Compensation Act" shall be taken into consideration, attention being invited to section 2 of Republic Act No. 784, which reads:

"SEC. 2. The definitions contained in Act Numbered Three thousand four hundred twenty-eight, otherwise known as "The Workmen's Compensation Act", as amended as to what constitutes total or partial disability are incorporated and made a part hereof."

It is requested that all municipal mayors under your jurisdiction be advised of the contents hereof for their information and guidance.

FRED RUIZ CASTRO
Executive Secretary

Department of Finance

BUREAU OF INTERNAL REVENUE

GENERAL CIRCULAR No. V-170

January 19, 1954

DISPOSITION OF INTERNAL REVENUE DOCUMENTARY STAMPS OF "VICTORY" SERIES.

To all Internal Revenue Officers, Provincial, City and Municipal Treasurers and others concerned:

Inasmuch as the Bureau of Internal Revenue has sufficient stock of documentary stamps in all denominations of the "Republic" series, the old documentary stamps ("Victory" series) are declared obsolete and the use thereof is hereby prohibited. City and Provincial Treasurers and their deputies who have said stamps under their accountability are requested to submit them to the Provincial and City Auditors for verification preparatory to condemnation and destruction by burning. A copy of the certificate of destruction signed by the auditor and the treasurer should be furnished the Bureau of Internal Revenue for record and accounting purposes.

Unused documentary stamps ("Victory" series) which are in good condition in the hands of private parties should be submitted to the Bureau of Internal Revenue within three months from the date of promulgation of this circular in the *Official Gazette* for verification, destruction and subsequent refund of their money value. After the lapse of the said three-month period, no documentary stamps ("Victory" series) will be accepted for the purpose of securing a refund of their money value.

Extreme care should be taken in the examination of documentary stamps surrendered by private parties to determine their genuineness. In case of doubt, they should be examined by experts in the Bureau of Printing.

This circular shall take effect upon promulgation in the *Official Gazette*.

J. ANTONIO ARANETA
Acting Collector of Internal Revenue

By: SILVERIO BLAQUERA
Deputy Collector of Internal Revenue

Approved:

JAIME HERNANDEZ
Secretary of Finance

M. AGREGADO
Auditor General

Department of Justice

ADMINISTRATIVE ORDER No. 114

July 28, 1954

APPOINTING FIRST ASSISTANT PROVINCIAL FISCAL IRINEO V. BERNARDO OF RIZAL AS ACTING PROVINCIAL FISCAL OF CAVITE.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Irineo V. Bernardo, First Assistant Provincial Fiscal of Rizal, is hereby appointed Acting Provincial Fiscal of Cavite with compensation provided by law for the position, effective immediately and to continue until the appointment of a regular Provincial Fiscal thereof or until further orders.

JESUS G. BARRERA
Undersecretary of Justice

ADMINISTRATIVE ORDER No. 115

August 9, 1954

DETAILING ASSISTANT PROVINCIAL FISCAL SANTIAGO O. TAÑADA OF QUEZON AS ACTING CITY ATTORNEY OF SAN PABLO CITY.

In the interest of the public service and pursuant to the provisions of section 1680 of the Revised Administrative Code, Mr. Santiago O. Tañada, Assistant Provincial Fiscal of Quezon Province, is hereby detailed to San Pablo City, there to perform the duties of Acting City Attorney, without additional compensation, effective immediately and to continue until the return to duty of Assistant City Attorney Ariston Fule, now on vacation leave, or until further orders.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 116

August 10, 1954

AUTHORIZING JUDGE CONRADO M. VASQUEZ OF BATANGAS, TO HOLD COURT IN LIPA CITY, SAME PROVINCE.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Conrado M. Vasquez, Judge of the Eight Judicial District, Batangas, Third Branch, is hereby authorized to hold court in Lipa City, Province of Batangas,

for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 117

August 14, 1954

AUTHORIZING JUDGE VICENTE DEL ROSARIO QUEZON PROVINCE, TO HOLD SPECIAL TERM OF COURT IN BALER, SUB-PROVINCE OF AURORA, QUEZON PROVINCE.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Vicente del Rosario, Judge of the Ninth Judicial District, Quezon Province, Branch III, is hereby authorized to hold special term of court in the municipality of Baler, Subprovince of Aurora, Quezon Province, beginning September 1, 1954, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 118

August 14, 1954

AUTHORIZING TECHNICAL ASSISTANT VICENTE ABAD SANTOS TO SIGN CORRESPONDENCE INVOLVING MATTERS OF ROUTINARY NATURE.

In the interest of the public service, Mr. Vicente Abad Santos, Technical Assistant, Department of Justice is hereby authorized to sign for the undersigned correspondence involving matters of routinary nature. He will sign as follows:

"For the Secretary of Justice:

VICENTE ABAD SANTOS
Technical Assistant"

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 119

August 14, 1954

DESIGNATING DEPUTY REGISTER OF DEEDS FLORENCIO D. R. PONCE, MANILA, TO ACT AS REGISTER OF DEEDS OF QUEZON CITY DURING THE ABSENCE OF MR. RAMON VELASCO.

In the interest of public service, and pursuant to the provisions of section 201 of the Revised Ad-

ministrative Code, as amended by Republic Act No. 1138, Mr. Florencio D. R. Ponce, Deputy Register of Deeds of Manila, is hereby designated to act as Register of Deeds of Quezon City during the absence of Mr. Ramon Velasco, the regular incumbent, effective August 18 to 31, 1954.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 120

August 20, 1954

DESIGNATING SPECIAL ATTORNEY PEDRO C. QUINTO, DEPARTMENT OF JUSTICE, TO CONDUCT AN INVESTIGATION OF THE ACCURACY OF THE REPORTS OF THE CLERK OF COURT OF THE COURT OF FIRST INSTANCE OF MASBATE.

In the interest of the public service and pursuant to the provisions of section 79(C) of the Revised Administrative Code in connection with section 3 of Republic Act No. 311, Mr. Pedro C. Quinto, Special Attorney, Prosecution Division, Department of Justice, is hereby designated to conduct an investigation of the accuracy of the monthly reports of the Clerk of Court of the Court of First Instance of Masbate, concerning cases pending decision at the end of every month, and for this purpose, he may summon witnesses by subpoena or subpoena *duces tecum* administer oath, take testimony and secure documents relevant to the said investigation.

PEDRO TUASON
Secretary of Justice

Department of Agriculture and Natural Resources

FISHERIES ADMINISTRATIVE ORDER No. 37-1

July 7, 1954

AMENDING SECTION 2 OF FISHERIES ADMINISTRATIVE ORDER NO. 37, s. 1954 (REGULATING THE OPERATION OF TRAWL IN MAQUEDA, VILLAREAL AND CARIGARA BAYS, INCLUDING ZUMARRAGA CHANNEL).

1. Section two of Fisheries Administrative Order Numbered Thirty-seven is hereby amended to read as follows:

"2. *Prohibition.*—It shall be unlawful for all kinds of trawl to operate in Maqueda, Villareal and Carigara Bays, including Zumarraga

Channel except as provided for in section three of this Fisheries Administrative Order."

2. *Effectivity*.—This Order shall take effect upon its approval.

SALVADOR ARANETA
*Secretary of Agriculture and
Natural Resources*

Approved July 1, 1954.

By authority of the President:

FRED RUIZ CASTRO
Executive Secretary

FISHERIES ADMINISTRATIVE ORDER No. 38

June 7, 1954

PROHIBITING THE OPERATION OF TRAWL OF ANY KIND IN THE MUNICIPAL WATERS OF CALBAYOG CITY AND STA. MARGARITA, PROVINCE OF SAMAR UNTIL DECEMBER 31, 1954.

Pursuant to the provisions of section 4 of the Fisheries Act, as amended, and for the protection and conservation of demersal fishes in the municipal waters of Calbayog City and Sta. Margarita, Province of Samar, the following regulation is hereby promulgated:

1. *Definition*.—For the purpose of this Administrative Order, the following terms as used herein shall be construed as follows:

Trawl is a kind of fishing net made in the form of a conical bag with the mouth kept open by a beam or a pair of otter doors or vessels towed by one or two fishing crafts over the sea floor to capture demersal species that naturally live at or near the bottom.

2. *Prohibition*.—It shall be unlawful for all kinds of trawl to operate in the municipal waters of Calbayog City and the municipality of Sta. Margarita, Province of Samar, except as provided for in section three of this Order.

3. *Exemption*.—(a) For scientific, educational or propagation purposes, any person, association, institution, or corporation of good repute may be granted by the Secretary of Agriculture and Natural Resources, free of charge, a permit to catch or take or cause to be caught or taken fishes of all sizes or aquatic animals or plants, otherwise prohibited in this Administrative Order, subject to such conditions as the Secretary of Agriculture and Natural Resources may deem wise to impose for the proper conservation of the fisheries.

(b) Any person who shall catch fish under any or all of these licenses but uses the same for purposes other than those mentioned herein-above shall be subject to the same penalty as if no permit has been granted.

4. *Enforcement*.—For the purpose of enforcing the provisions of this Administrative Order and of

such regulations that may hereafter be promulgated, fishery inspectors, agents or officers; members of the Philippines Constabulary; members of the municipal district police; members of the secret service force, inspectors, guards, wharfingers of the customs service; Internal Revenue officers and agents; officers of the Coast Guard Cutters and Lighthouse keepers; and such other competent officials, employees or persons as may be designated in writing by the Secretary of Agriculture and Natural Resources are hereby made deputies of said Department Head and empowered to:

(a) Ascertain whether person or persons found engaged in fishing are duly provided with licenses required in this Administrative Order.

(b) Arrest any person found committing or attempting to commit an offense in violation of this Administrative Order.

(c) Seize, when deemed necessary for evidence or for purposes as the Secretary of Agriculture and Natural Resources or his duly authorized representatives may consider advisable, any fishing gear or apparatus used or which may be used to catch, kill or take any fish or other aquatic animals or plants in said areas, and fish caught or killed or aquatic animals or plants taken or found in the possession of any person in violation of the rules and regulations.

(d) Administer oaths and take testimonies in any official matters, in any investigation conducted by them or any of them, touching any matter under the authority of Fisheries Act and this Administrative Order; and

(e) File the necessary complaint or complaints in proper court and report such violation or violations to the Secretary of Agriculture and Natural Resources for appropriate action.

5. *Penalty*.—Any violation of the provisions of this Administrative Order shall subject the offender to prosecution and, upon conviction, he shall suffer the penalty provided in section 83 of Act No. 4003, as amended, which is a fine of not more than ₱200, or imprisonment for not more than 6 months, or both, in the discretion of the court.

6. *Repealing clause*.—All administrative orders and regulations or parts thereof inconsistent with the provisions of this Administrative Order are hereby revoked.

7. *Effectivity*.—This Administrative Order shall take effect upon its approval and shall be strictly enforced until December 31, 1954.

SALVADOR ARANETA
*Secretary of Agriculture and
Natural Resources*

Approved, July 1, 1954.

By authority of the President:

FRED RUIZ CASTRO
Executive Secretary

BUREAU OF ANIMAL INDUSTRY

ANIMAL INDUSTRY ADMINISTRATIVE ORDER No. 7

November 11, 1953.

RULES AND REGULATIONS GOVERNING THE IMPORTATION, BRINGING, OR INTRODUCTION OF ANIMALS INTO THE PHILIPPINES FROM FOREIGN COUNTRIES, AND PRESCRIBING THE TREATMENT TO WHICH THEY SHALL BE SUBJECTED BEFORE SHIPMENT AND AFTER THEIR ARRIVAL IN THE PHILIPPINES.

Pursuant to the provisions of section 1762, sub-sections (a), (b) and (c) of section 1765, and section 1770 of the Revised Administrative Code, as amended by Act No. 3639, the following rules and regulations governing the importation, bringing, or introduction of domestic animals into the Philippine Islands from foreign countries and prescribing the treatment to which they shall be subjected before shipment and after their arrival in the Philippines, are hereby promulgated for the information and guidance of all concerned:

GENERAL PROVISIONS

1. *Definition.*—For the purpose of this order, the terms herein used are defined as follows:

(a) "Domestic animals" shall apply to and include horses, mules, cattle, carabaos, hogs, sheep, goats, dogs, cats, rabbits, deer, fowls, circus, and pet animals, and those intended to be used for show or experimental purposes. (Section 4, Act No. 3639, as amended by Act No. 3830).

(b) "Dangerous communicable diseases", as herein used, include glanders or farcy, surra, nagana, dourine, encephalomyelitis, anthrax, rinderpest, tuberculosis, hemorrhagic septicemia, blackleg, contagious abortion, contagious pleuropneumonia, hydrophobia, actinomycosis, leptosperosis, piropasmosis, anaplasmosis, hog cholera, swine plague, vesicular exanthema, swine erysipelas, European fowl pest, fowl pox, fowl typhoid, fowl cholera, pullorum, leukosis complex, blackhead of turkey or any other acute communicable disease which may cause a mortality of over five per centum in the period of one month.

(c) "Person" shall be construed as either singular or plural, as the case demands, and shall apply to and include corporations, firms, associations, companies, societies and other legal entities.

(d) "And" may be read "or" and "or" may be read "and", if the sense requires it.

2. It shall be unlawful for any person to import, bring or introduce live cattle, including carabaos, buffaloes, and horses into the Philippines from any foreign country. However, the Director of Animal

Industry may, with the approval of the Secretary of Agriculture and Natural Resources, authorize the importation of live cattle including carabaos, buffaloes and horses into the Philippines for breeding and draft purposes and bovine cattle for the manufacture of serum, and of those which are authorized by law to be imported, subject to the provisions of the Order.

3. *General requirements before making importation.*—Any person contemplating the importation or bringing in or introduction into the Philippines from any foreign country of any domestic animal shall file a request in writing with the Director of Animal Industry, stating the number and kind of animals he desires to import, the point of origin, port of embarkation, probable date of shipment, and the object or purpose for which the animals are to be used. Upon approval of the application, the Director of Animal Industry shall designate the point of debarkation and advise as to the probable quarantine restrictions that will be necessary in case at or about the time of shipment a dangerous and communicable animal disease exists in the country of origin, and make possible quarantine station accommodation so as to prevent unnecessary inconvenience and loss. Animals coming from foreign countries without permits shall not be allowed to be landed.

All animals imported into the Philippines shall be subject to such quarantine and tests as may be prescribed by the Director of Animal Industry and those that may be found to be infected with dangerous communicable animal diseases shall immediately be condemned, killed and properly burnt or buried in the presence of a representative of the Bureau of Animal Industry at the expense of the importer.

DAIRY AND BREEDING CATTLE FROM AUSTRALIA, TASMANIA OR NEW ZEALAND

4. *Importation of dairy or breeding cattle from Australia.*—No dairy or breeding cattle from Australia shall be admitted into the Philippines unless accompanied by a certificate of health and origin. Said certificate shall contain information furnished by the owner on the following points: Breed, color, age, sex, brands, place of birth, and the places or locations to which the animal was taken before the date of departure. The owner shall declare under oath that the information furnished by him is true and that the animal never had contagious pleuro-pneumonia and contagious abortion (brucellosis), nor has been in contact with any animal so affected.

The said certificate of health and origin shall further contain certified statements of the Chief Federal Quarantine Officer of the State in Australia from where the animal embarked on the matters and in the manner required by the form prescribed in section 7 hereof.

5. *Importation of dairy or breeding cattle from Tasmania or New Zealand.*—No dairy and breeding

cattle from Tasmania and New Zealand shall be allowed entry in any port of the Philippines unless accompanied by a certificate from the local Federal Quarantine Officer of the Australian port where transhipped, to the effect that the animals were kept under government supervision during transshipment and were not exposed to infection with contagious pleuro-pneumonia and contagious abortion. Such dairy and breeding cattle from Tasmania and New Zealand shall be allowed to land in the Philippines only when transported from Australia under the conditions above specified and those required for similar stock originating from Australia. Such cattle from Tasmania and New Zealand shall also be accompanied by a certificate from the Department of Agriculture of Australia to the effect that Tasmania and New Zealand are wholly free from contagious pleuro-pneumonia; that the animals have been tested with tuberculin and two consecutive contagious abortion agglutination tests with negative results, performed at thirty days interval, the last test to be made within five days before shipment; that the cows or bull should come from brucellosis and Tuberculosis free herds as certified by the Chief, Quarantine Officer of the state of origin or when the animals were vaccinated with *Brucella abortus* strain 19 vaccine, 4 to 8 months of age and less than 36 months old; that the ship has been thoroughly disinfected if it transported infected cattle on its preceding voyage; and that a complete record of the temperatures of the animals tested, date of test, etc., is attached to the certificate.

6. *Prohibition to land dairy or breeding cattle from Australian ports carried in a vessel not disinfected.*—Except those for slaughter at any National Slaughterhouse, cattle accompanied by a certificate may be refused landing in the Philippines, upon proof that such animals have been transported from Australian ports in a vessel that carried cattle not certified during the same trip or on previous trips, without such vessel having been previously disinfected to the satisfaction of a duly authorized representative of the Commonwealth of Australia or of the Republic of the Philippines.

7. *Contents of certificates accompanying dairy or breeding cattle from Australia, Tasmania and New Zealand.*—All certificates accompanying cattle from Australia, Tasmania and New Zealand shall be addressed to the Director of Animal Industry, Manila, in care of the Master of the vessel transporting them, and shall be prepared and certified substantially in the following manner:

(Heading)

(For export to the Philippines)

Description of animals:

Breed _____ Age _____
Color _____ Sex _____

Brands: _____

Right _____ Left _____
Born at _____ (Town or district) _____ (State)

Second location _____
Third location _____
Fourth location _____
Fifth location _____
Present location _____

I, owner of the above described animal, hereby declare that the above information is correct and that the animal never had pleuro-pneumonia or contagious abortion or has been in contact with animals so affected.

(Owner)

Subscribed and sworn to before me at _____
_____ this _____ day of _____
19____.

(Person authorized to administer oath)

I, Chief, Federal Quarantine Officer for animals in the State of _____, after due investigation do hereby certify:

(a) That the above information is true and correct.

(b) That the animal above described has always been in a closely settled district or districts in which the conditions as regards animal diseases have been constantly and exactly known by the Department of Agriculture.

(c) That the animal has not at any time during the twelve months next preceding the issuance of the certificates suffered from nor been in contact with any animal infected with any dangerous and communicable diseases (tuberculosis possibly excepted) and has never been in any district in which pleuro-pneumonia existed at the time.

(d) That the animal was tuberculin tested by _____, a qualified veterinarian approved by the Chief, Quarantine Officer of Animal Services and a satisfactory negative reaction was obtained.

(e) That the record of the tuberculin test attached hereto and indorsed by me is complete and refers to the animal described above.

(f) That the animal is being shipped on the steamship _____ sailing from _____ on _____.

(g) That the fodder supplied for use on the voyage has not been exposed to an infection of contagious pleuro-pneumonia.

(h) That I have ascertained from an official source that the vessel in question did not transport on its latest preceding voyage infected cattle or cattle not accompanied by a certificate similar to this, or if such cattle were trans-

ported I certify that the vessel has since been properly disinfected.

(i) That before shipment the animal was twice subjected to one month interval to agglutination test for contagious abortion on the following dates _____, and satisfactory negative reactions were obtained. The last test was performed five days before shipment.

(j) That the following animals _____ were vaccinated with *Brucella abortus* vaccine strain 19, when 4 to 8 months old and presently less than 36 months of age. The certificates of vaccination of each animal showing the brands or tattoos of vaccination are attached with the health certificates.

CATTLE FOR SLAUGHTER

8. *Place of landing of cattle imported for slaughter.*—Cattle imported for slaughter purposes shall be discharged and landed at the Sisiman Stockyards and Slaughterhouse of the Bureau of Animal Industry, or at any port or point which may be designated by the Director of Animal Industry.

The proper entry of vessel must, however, be first arranged with the Insular Collector of Customs in Manila before any cargo can be discharged.

9. *Duties of the importer of cattle intended for slaughter.*—The importer shall unload, drive, feed, and butcher the cattle, and shall be responsible for transporting the meat to Manila or other points. The conditions under which the meat is kept during transportation must be satisfactory to the Director of Animal Industry; but the owner shall not be relieved from the responsibility of landing the meat in Manila or elsewhere in wholesome condition, conforming to food inspection requirements. All dead animals condemned carcasses, and parts thereof, shall be disposed of by the Director of Animal Industry. However, the owner may be required to dispose of the dead animals subject to the supervision of the Director of Animal Industry or his authorized representative pending the installation of suitable apparatus for disposing of same.

10. *Bond to be filed by owner or importer.*—Each owner or importer of cattle for slaughter purposes shall deposit with the Director of Animal Industry a cash bond or a surety bond executed by a reputable bonding company for the sum of P10,000, Philippine currency, to guarantee the payment of the slaughter fees and other charges that may be due the Government from said owner or importer and the faithful compliance of the terms and conditions of the importation permit.

11. *Places of discharging meat brought from the Sisiman Stockyard and Slaughterhouse.*—Meat coming from Sisiman Slaughterhouse shall be discharged at a point in the Pasig River designated by the Insular Collector of Customs and further delivery shall be made in exactly the same manner as meat is delivered from the Manila slaughterhouse to different places in the City.

12. *Power of the Director of Animal Industry to condemn diseased animals.*—The Director of Animal Industry reserves the right to destroy any diseased cattle or any animal that has been exposed to any dangerous and communicable animal diseases when in his judgment, this measure is necessary to protect the livestock interests of the Philippines. In such event, all necessary precautions shall be taken to prevent losses from infectious diseases of cattle, but the Government of the Philippines shall not be held responsible for such losses resulting from a cattle disease.

CATTLE OR CARABAOS IMPORTED FROM THE UNITED STATES AND OTHER COUNTRIES

13. *Importation of cattle from the United States.*—Cattle imported from the United States shall be accompanied by a certificate of health issued by the inspector in charge of the Bureau of Animal Industry of the United States Department of Agriculture at the point of origin, certifying to the following facts:

(a) That all the animals are free from infectious livestock diseases or have not been exposed to such diseases for the last thirty days.

(b) That each and every animal has been tuberculin tested by a veterinarian officially recognized by the Federal and State governments within a period of sixty days before shipment with negative result.

(c) That in case of non-vaccinated animals all have been tested twice for contagious abortion (brucellosis) using the agglutination test at thirty days interval, the last having been performed a few days before shipment, with negative results.

(d) That the following animals _____ were vaccinated with *Brucella abortus* vaccine strain 19, when 4 to 8 months old and presently less than 36 months of age. The certificates of vaccination of each animal showing the brands or tattoos of vaccination are attached with the health certificates.

14. *Importation of cattle, carabaos and buffaloes from Burma, Hongkong, Indo-China, Indonesia, India, Malay States, Thailand (Siam) or Pakistan.*—No cattle, carabaos or buffaloes shall be imported, brought or introduced into the Philippines from Burma, Cambodia, Hongkong, Ceylon, Indo-China, Indonesia, India, Malay States, Thailand (Siam), Pakistan or Vietnam or other points from South East Asia, unless:

(a) Previous permission to this effect has been granted by the proper authorities of the Government of the Philippines.

(b) The animals to be imported have been immunized by authorized government veterinarians from the point of origin against rinderpest by means of any of the following:

- (1) avianized vaccine
- (2) goat virus
- (3) lapinized vaccine, or
- (4) tissue vaccine

(c) The immunization has been done in the presence of a veterinarian of the Philippine Government sent for the purpose. All expenses incident to travel by the Philippine representative shall be borne by the interested party.

(d) The animals be certified by a government veterinarian from the point of origin that the said livestock are free from foot-and-mouth disease and other infectious animal diseases at any time during twelve months next preceding the date of shipment and have not been exposed thereto.

15. *Places of landing of cattle, carabaos and Indian buffaloes imported from Burma, Hongkong, India, Indo-China, Indonesia, Malay States, Thailand (Siam) or Pakistan.*—Animals imported in accordance with the next preceding section shall, after inspection, be landed at either the Pandacan Quarantine Station in Manila or at any other place that the Director of Animal Industry may designate and shall be subjected to such tests and period of quarantine as the Director of Animal Industry may deem necessary.

In case any dangerous communicable animal disease, such as rinderpest, foot-and-mouth disease, contagious pleuro-pneumonia, etc. breaks out among the bovine animals on board any incoming vessel, the said vessel shall not be permitted to dock and the animals therein shall not be unloaded but shall be disposed of: (1) by returning them to the point of origin accompanied by a representative of the Bureau of Animal Industry; or (2) by destroying them on board and throwing them over board in the high seas outside of the Philippine waters, witnessed by a veterinarian of the said Bureau; or (3) by killing or destroying the animals on board the boat and burning or burying their carcasses in an isolated place to be designated by the Director of Animal Industry in the presence of a representative of the Bureau of Animal Industry and at the expense of the owners, shippers, carriers or their agents.

The feces, litter or other dirt shall not be dumped or thrown over board within Philippine waters but shall be disposed of when the vessel is in the high seas, or incinerated on board. All persons in direct contact with the animals shall not be permitted to land unless their clothes are completely changed and their hands and shoes properly disinfected.

16. *Importation of carabaos and cattle from countries not declared infected with any dangerous and communicable animal diseases.*—Cattle and carabaos imported from countries not declared by the Secretary of Agriculture and Natural Resources to be infected with any dangerous and communicable animal diseases shall be accompanied by a health certificate

issued shortly before shipment by the proper veterinary authority of the country of origin, certifying to the fact that the same have not been exposed to any dangerous contagious animal diseases for at least three months before the issuance of the certificate.

17. *Importation of horses, mules and asses.*—Horses, mules and asses imported, brought or introduced into the Philippines from any foreign country shall be accompanied by a health certificate, issued shortly before shipment by the proper veterinary authority of the country of origin, stating that such animal in the shipment is free from, and has not recently been exposed to, any dangerous and communicable animal diseases.

In case of any doubt as to the presence of glanders or of any dangerous communicable livestock diseases among the animals in any shipment, the animals shall be placed in quarantine and tested with mallein or other officially accepted biologics, drugs or procedures at the expense of the owner. If an animal is positively found to be affected with glanders or incurable disease, it shall be destroyed and the owner thereof shall not be allowed compensation.

18. *Importation of cattle, horses, mules and asses from South Africa.*—Cattle, horses, mules and asses imported from South Africa shall, after inspection with microscopic examination of the blood for trypanosomes be landed at the Pandacan Quarantine Station in Manila or at any other place that the Director of Animal Industry may designate, and shall be subjected to such tests and period of quarantine as the Director of Animal Industry may deem necessary.

SMALL ANIMALS

19. *Importation of hogs.*—Hogs imported, brought or introduced from any foreign country into the Philippines either for breeding or slaughter purposes, shall be accompanied by a health certificate issued shortly before shipment by the proper veterinary authority of the country of origin, certifying to the fact:

(a) That the hogs have been immunized to hog cholera using either simultaneous method or any of the modified hog cholera vaccines. In case of countries which are not infected with hog cholera, this requirement may be waived.

(b) That the hogs have been submitted to tuberculin and contagious abortion test shortly before shipment with satisfactory negative results.

(c) That the hogs have come from Brucellosis free herds and that two agglutination tests at thirty days interval have been performed by government veterinarian or by any officially recognized practising veterinarian at the point of origin both with negative results, the last having been performed five days before shipment. This requirement may be waived if the disease is not present in the country of origin.

(d) That the animals are free from, or have not been exposed to, other dangerous communicable animal diseases, like vesicular exanthema, infectious pneumonia, infectious enteritis, infectious atropic rhinitis and the like.

(c) That the animals have been vaccinated against swine erysipelas within a month before shipment. In countries where the disease is not present this requirement may be waived.

20. *Importation of goats and sheep.*—Goats and sheep to be imported, brought or introduced from any foreign country into the Philippines shall be accompanied by a health certificate issued shortly before shipment by the proper veterinary authority of the country of origin stating:

(a) That the goats come from brucellosis free herd and have been tested for brucellosis for two consecutive agglutination tests at thirty days interval with both negative results, the last one having been performed within five days before shipment.

(b) That the goats have been tuberculin tested with negative result, the test having been performed within a month before shipment by a government veterinarian or government licensed veterinarian of the country of origin.

(c) That the goats are free from any other dangerous communicable diseases and have not been exposed to such diseases.

(d) In case of the sheep, that the animals are free and have not been exposed to any dangerous communicable animal diseases shortly before shipment.

21. *Importation of sheep and goats from South Africa.*—Sheep and goats imported from South Africa shall, after inspection with microscopic examinations of the blood for trypanosomes, be landed at the Pandacan Quarantine Station in Manila or at any other place that the Director of Animal Industry may designate, and shall be subjected to such tests and period of quarantine as the Director of Animal Industry may deem necessary.

The requirements in the next preceding section shall also apply to this case.

22. *Importation of fowls.*—Fowls imported into the Philippines from any country shall be accompanied by a health certificate issued shortly before shipment by the proper veterinary authority at the port of embarkation, certifying to the fact:

(a) That the fowls are free from, and have not been in contact with or exposed to, any dangerous and communicable diseases affecting aves for at least sixty days before the date of shipment;

(b) That the fowls have been tested against pullorum shortly before shipment with negative result; and

(c) That the fowls have come from flocks that are free from leucosis complex.

23. *Importation of hatching eggs.*—No hatching eggs shall be imported into the Philippines unless accompanied by a certificate issued shortly by the proper authorities from the point of origin certifying to the fact that such eggs come from pullorum and leucosis free flocks.

24. *Disposal of infected fowls.*—Should any shipment of fowls arrive infected with any dangerous and communicable diseases, all of the sick fowls shall be destroyed and cremated and the apparently well ones held under quarantine for such time as the Director of Animal Industry may deem necessary. If such shipment is consigned to Manila the birds shall be quarantined at the Pandacan Quarantine Station or at any place that may be designated by the Secretary of Agriculture and Natural Resources and if consigned to any part of the Philippines, at the place that the Director of Animal Industry may designate.

No compensation shall be allowed for the birds destroyed and the expense for care and feed during the period of quarantine shall be defrayed by the owner.

CIRCUS AND PET ANIMALS

25. *Requirements for incoming pets, circus or show animals.*—Dogs, cats, rabbits, circus and pet animals, and those intended to be used for show or experimental purposes imported, brought or introduced into the Philippine Islands from any foreign country shall be accompanied by a health certificate issued shortly before shipment by proper veterinary authority of the country of origin, stating that each of the animals is free from, and has not recently been exposed to, any dangerous and communicable animal disease.

26. *Circus and pet animals imported without health certificate.*—If any such animals shall arrive unaccompanied by said health certificate they may be placed in quarantine at the discretion of the Director of Animal Industry for a period of ten days. If a disease appears in one or more of them, they shall all be held in quarantine until after ten days have elapsed from the date of the disappearance of the disease.

27. *Animals that may become agricultural pests.*—Cats, rabbits, squirrel and other animals intended for curiosities or pets, for experimental purposes, or for any other purpose, which might become agricultural pests or in any way destructive to agriculture, shall be subject to inspection, certification and disposal by the Director of Plant Industry or his duly authorized agents under the Agricultural Pests Quarantine Act and the regulations promulgated thereunder. (Act No. 3767.)

PENALTIES

28. *Penalties.*—Any person who shall contravene or violate any of the provisions of this Administrative Order, or who shall falsify, forge, counterfeit, alter, deface, or destroy any certificate, pass,

tag, or any other legal paper issued by virtue of this Order shall be liable to prosecution, and upon conviction shall suffer the penalty provided in the second paragraph of section 2747 of the Revised Administrative Code (Act No. 2711), which is a fine of not more than P100, or imprisonment for not more than 30 days, or both, in the discretion of the court, and such other penalties as are prescribed by the Penal Code.

REPEALING PROVISIONS AND EFFECTIVITY

29. *Repealing paragraph.*—All orders, rules and regulations or parts thereof in conflict with the provisions of this order are hereby repealed.

30. *Date of effectivity.*—This Administrative Order shall take effect on _____.

SALVADOR ARANETA
*Secretary of Agriculture and
Natural Resources*

Recommended by:

MANUEL D. SUMULONG
Director of Animal Industry

BUREAU OF FISHERIES

FISHERIES ADMINISTRATIVE ORDER NO. 14-6

June 15, 1954

AMENDING SECTION 3 OF FISHERIES ADMINISTRATIVE ORDER NO. 14

SECTION 1. Section 3 of Fisheries Administrative Order No. 14 is hereby amended, to read as follows:

SEC. 3. *Classes of lease.*—A lease for fishpond purposes issued in accordance with these regulations may be one of the following classes:

(a) *Ordinary fishpond permit* for a tract of public forest land not exceeding ten hectares for a term not exceeding one year, may be issued by the Director of Fisheries. For an area of more than ten hectares, an ordinary fishpond permit may be issued by the Director of Fisheries with the approval of the Secretary of Agriculture and Natural Resources.

(b) *Lease agreements* shall only be issued by the Secretary of Agriculture and Natural Resources upon recommendation of the Director of Fisheries for a definite term of ten years at the option of the lessee. A lease agreement may be granted to an applicant who has introduced improvements in the area equivalent to one-fifth of the total amount needed to complete the improvements of the area on the basis of P1,000 per hectare.

(c) A husband and wife who are living separately by virtue of a decree of legal separation granted under the provisions of the Civil

Code of the Philippines may each apply for a fishpond permit covering an area not more than the maximum number of hectares allowed under this section. A husband and wife living together should not hold under their individual or separate permits an aggregate area in excess of the maximum number of hectares herein allowed.

(d) In the case of children who are qualified to obtain permit or lease as provided for under section 8 hereof, and although whose parents are actual holders of permit covering the maximum area, any of them may apply for a fishpond permit provided they are at least 21 years of age and are financially qualified in their own right.

A person who is actually a holder of fishpond permit or lease covering the maximum area as provided herein shall be precluded from acquiring any right or interest in another permit or lease even if his interest is that of a stockholder of a corporation or company.

A corporation or company shall not be granted a permit or lease if its members or stockholders are already holders of permits or leases covering an aggregate area of two hundred hectares or more, *Provided, however*, That if the total area covered by the permits or leases of the members or stockholders is less than two hundred hectares, the permit or lease may be issued a corporation or company only for the balance of the area to complete the maximum allowed.

The maximum number of hectares to be covered by a permit or lease shall not be more than one hundred hectares for each individual and not more than two hundred hectares for each corporation or partnership duly registered with the Securities and Exchange Commission, *Provided*, That the Secretary of Agriculture and Natural Resources, or the Director of Fisheries may, in his discretion, limit or reduce the area that may be granted for reasons of public interest, financial capability and qualification of applicants, and existence of numerous permits or applications in the place or places covered by the application.

SEC. 2. This Order shall take effect upon its approval, and its provisions shall apply to all applications pending issuance of permits or leases.

SALVADOR ARANETA
*Secretary of Agriculture and
Natural Resources*

Recommended by:

D. V. VILLADOLID
Director of Fisheries

Department of Public Works and Communications

BUREAU OF TELECOMMUNICATIONS

ADMINISTRATIVE ORDER No. 12

April 22, 1954

NOMINAL RATE OF P0.30 ON MESSAGES RELATING TO TENANCY DISPUTES

In line with the Administration's policy of an expeditious handling of tenancy cases, telegrams filed by the Court of Industrial Relations or by any of its branches and/or agencies in the provinces pertaining to disputes between landlords and tenants pending before it or brought to its attention, shall, as a temporary measure, be accepted at the rate of P0.30 per message, subject to the following conditions:

(1) That each of such telegrams shall contain not more than 30 words in length, and that in case the message contains more than 30 words, every word in excess of 30 shall be charged for at the rate of P0.15 per word;

(2) That only two telegrams of this nature can be filed daily at the nominal rate of P0.30 from one telegraph office to another, and that telegrams that may be filed in excess of the two telegrams herein allowed shall be treated as full-rate telegrams and shall, therefore, be charged accordingly;

(3) That such telegrams shall deal exclusively on matters concerning disputes between landlords and tenants pending decision before the Court of Industrial Relations or brought to its attention or to any of its branches and/or agencies in the provinces and shall be framed in the fewest words possible;

(4) That each of such telegrams shall be filed in duplicate in order to facilitate the submission of bills to the Court of Industrial Relations;

(5) That each of such telegrams shall carry the indicator "TENANCY" before the address and included in the count of chargeable words;

(6) That each of such telegrams shall be endorsed "O. B. CHARGEABLE TO ACCOUNT, COURT OF INDUSTRIAL RELATIONS" followed by the signature of the official authorized to file the same;

(7) That a monthly Statement of Account shall be prepared by the Accounting Officer of the Bureau of Telecommunications and transmitted to the Court of Industrial Relations for settlement; and

(8) That this arrangement is only temporary in nature and shall be discontinued whenever full-

rate telegrams are being delayed through congestion of traffic.

F. CUADERNO

Director of Telecommunications

Approved:

VICENTE OROSA

*Acting Secretary of Public Works
and Communications*

ADMINISTRATIVE ORDER No. 13

June 22, 1954

TELEGRAMS REGARDING NATIONAL COLLECTIONS AND ADVICES BY PNB OF FUNDS TRANSFERRED TO THE ACCOUNT OF THE TREASURER OF THE PHILIPPINES AT P0.20 PER MESSAGE AS AN EXCEPTION TO ADMINISTRATIVE ORDER NO. 6, DATED SEPTEMBER 17, 1953.

Effective at once, telegrams containing reports of national collections from provincial, city, municipal and municipal district treasurers, addressed to the Treasurer of the Philippines, Manila, and telegraphic advices by the Philippine National Bank branches and agencies of funds transferred to the account of the Treasurer of the Philippines, addressed to the main office of the Philippine National Bank in Manila, [see letter (f), first paragraph of Administrative Order No. 6, series of 1953] shall, as under Administrative Order No. 7, series of 1952, be again accepted at the nominal rate of P0.20 per message instead of the P0.30 provided for in Administrative Order No. 6, dated September 17, 1953, irrespective of length. Telegrams of this classification shall, therefore, be considered an exception to the restrictions imposed under Administrative Order No. 6, series of 1953.

Please refer to Administrative Order No. 7, dated September 12, 1952, for proper guidance in accepting telegrams of the above classification.

F. CUADERNO

Director of Telecommunications

Approved:

VICENTE OROSA

*Acting Secretary of Public Works
and Communications*

ADMINISTRATIVE ORDER No. 14

July 7, 1954

COUNTING OF GROUPS OF WORDS IN INTERNATIONAL TELEGRAMS WHICH INCLUDE THE BRACKETS SIGN.

In accordance with the International Telegraph Regulations the two signs forming the bracket are counted as one actual word in all cases except when they are included in groups described in ar-

ticle 10, paragraph 2 (c) of the said regulations, i.e., except in Commercial Marks, Trade Marks, etc., when in accordance with article 18, paragraph 7(1) each sign forming the bracket shall be counted as a character.

Article 10, paragraph 2(c) and article 18, paragraph 7(1) referred to above are shown below:

"Article 10, paragraph 2(c) commercial marks, trade marks, designations of goods, arbitrary technical terms used to denote machines or parts of machines, reference numbers or indications, and other expressions of the same kind, provided that these marks, designations, technical terms, reference numbers of indications, and expressions are shown in a catalogue available to the public, or in a price list, invoice, bill of lading or similar document. These marks, designations, terms and expressions, reference numbers or indications may, exceptionally, be composed of letters, figures, and signs."

"Article 18, paragraph 7 (1) Groups composed of letters, figures, signs, or a mixture thereof, where authorized [Art. 10, par. 2(c)], house numbers [Art. 12, par. 6(2)] and ordinal numbers [Art. 12, par. 6(3)] consisting of figures and letters shall be counted at the rate of five characters to the word plus one word for each five characters or fraction of five characters in excess."

The following examples will illustrate the manner of counting bracket signs:

Examples	Word Counts	
	Ordinary Telegrams	Letter Telegrams
(A)	2	2
(.)	2	2
(£)	2	2
(4387)	2	2
(CRAVEN A)	3	3
(£E105-17-6) transmitted (L 105-17-6)	4/3	4/3
(£E105-17-6) transmitted (LE 105-17-6)	5/3	5/3
(£105.75) transmitted (Dollars 105.75)	4/3	4/3
(KILINDINI 16 MARCH 53)	5/3	5/3
(KILINDINI 16 MARCH 53)	5	5
(KILINDINI 16.3.53)	4/3	4/3
(RAMC)	2	2
(AC6) Commercial Mark	1	1
(ABCD/5) Commercial Mark	2/1	2/1
BF(8) Commercial Mark	1	1
A(1234)56AB Counted as reference	3/1	3/1
X(137241)1 Counted as reference	2/1	2/1
[(7KW63)1234567] Counted as reference	4/1	4/1
123456(2)2X Counted as reference	3/1	3/1

NOTE:

The figures shown above with bars between them, as in 4/3, correspond to the number of chargeable words and the number of words in groups.

The example given above (L 105-17-6) is counted as follows:

() --- 1 word
L --- 1 word
105-17-6 --- 2 words (8 characters)

F. CUADERNO

Director of Telecommunications

Approved:

VICENTE OROSA

Acting Secretary of Public Works
and Communications

ADMINISTRATIVE ORDER No. 15

July 26, 1954

INTERNATIONAL TELEGRAMS FILED AT CEBU TELECOMMUNICATIONS OFFICE ROUTED VIA RCA, GLOBE & MACKAY, ADDRESSED TO FOREIGN COUNTRIES, CHARGES OF—

Effective at 3:45 p.m., 2:09 p.m. and 2:08 p.m. on July 22, July 23, and July 24, 1954, respectively, when the Chief Operator, Cebu City, received the instruction of this Office by wire, international telegrams filed at Cebu City routed via RCA Communications, Inc., and Globe Wireless Ltd. Manila, addressed to all parts of the world, and in the case of Mackay Radio and Telegraph Co., addressed to China, Japan, Taiwan (Formosa), U. S. A. and possession, North America, Central America, South America and West Indies, shall be charged for at the international rate, the portion accruing to the Bureau of Telecommunications on such traffic shall not be collected from the sender, but the same shall be absorbed and paid by the said radio offices.

With respect to other countries not mentioned above by the Mackay Radio and Telegraph Company, the usual charges that will accrue to the said Company and the Bureau of Telecommunications shall be collected from the sender of such telegrams until further advice.

This arrangement shall apply only to international telegrams accepted at Cebu telecommunications office. International telegrams filed in other telegraph and radio stations within the Province of Cebu, routed via RCA Communications, Inc., Globe Wireless Ltd. and Mackay Radio and Telegraph Co., addressed to foreign countries, shall be charged for at the same rate as at present, that is, the portion of the cable or radio office concerned plus the amount corresponding to the share of the Bureau of Telecommunications shall be collected from the sender of such traffic.

To insure the collection of the share of the Bureau of Telecommunications, the Operator-in-Charge of telegraph reports and files at Cebu telecommunications office shall prepare B. T. Form No. 473 daily of this class traffic accepted at Cebu City and to submit such reports and files at the end of each month, by registered mail, to the Accounting Officer, Bureau of Telecommunications, Manila with the following indorsement on the registered cover: Attention, Billing Section, Accounting Office, in order to expedite delivery thereof.

Upon receipt of the telegraph reports and files from Cebu telecommunications office and from the Chief, Telegraph Examiners' Section, Manila, the Clerk-in-Charge of the Billing Section, Accounting Office, shall compare the same with the statements from the RCA Communications, Inc., Globe Wireless Ltd. and Mackay Radio and Telegraph Co., Manila.

These rules shall apply also to the other cable or radio office the moment they agree in writing that they will absorb and pay the Bureau of Telecommunications the amount corresponding to the share of the Bureau of Telecommunications the amount corresponding to the share of the Bureau on all such international telegrams filed at Cebu City telecommunications office.

This Order shall apply only to Cebu City telecommunications office and shall supersede existing regulations in conflict herewith in so far as that office is concerned.

F. CUADERNO
Director

Approved:

VICENTE OROSA
*Acting Secretary of Public Works
and Communications*

ADMINISTRATIVE ORDER No. 16

August 4, 1954

RATES ON DOMESTIC PRESS TELEGRAMS

Beginning August 15, 1954, domestic press telegrams shall be charged for at the flat rate of ₱0.03 per word, all words in the address, text and signature to be counted and charged for.

This Administrative Order supersedes any existing regulations in conflict therewith.

F. CUADERNO
Director

Approved:

VICENTE OROSA
*Acting Secretary of Public Works
and Communications*

Concurred in:

PEDRO M. GIMENEZ
Deputy Auditor General

ADMINISTRATIVE ORDER No. 17

August 5, 1954

NOMINAL RATE OF ₱0.10 ON TELEGRAMS CONTAINING COMPLAINTS FILED BY ANY CITIZEN ADDRESSED TO OR SENT BY OFFICIALS OF THE MINDANAO REGIONAL UNIT, PCAC.

The Mindanao Regional Unit of the Presidential Complaints and Action Committee, having been created with Headquarters at Cagayan de Oro City, telegrams containing 50 words or less that may be filed by any citizen against any official or employee of the Government addressed to or sent by officials of Mindanao Regional Unit, relating to complaints by citizens shall be charged for at the nominal rate of ₱0.10 each message.

The Mindanao Regional Unit comprises the territorial limits of Mindanao and Sulu.

The pertinent provisions contained in Administrative Orders Nos. 1 and 2 dated January 1 and 13, 1954, respectively, shall apply to telegrams that may be filed by any citizens addressed to or sent by officials of the Mindanao Regional Unit.

This Order shall take effect immediately.

F. CUADERNO
Director of Telecommunications

Approved:

VICENTE OROSA
*Acting Secretary of Public Works
and Communications*

Concurred in:

PEDRO M. GIMENEZ
Deputy Auditor General

CIRCULAR
(Unnumbered)

August 11, 1954

SUBMISSION OF FARE TICKETS WITH TRAVELING EXPENSE VOUCHER

It has been noted that many field personnel are in the habit of not securing fare tickets from conductors of jeepneys, auto buses and other types of public conveyance when used in traveling on official business, and submitting their traveling expense vouchers without such fare tickets which is contrary to existing regulations. Unless such expenses are supported with fare tickets claims for the same will hereafter be disallowed in audit. Regardless of the amount incurred for this purpose, the fare ticket should always be submitted in support of all claims for travel.

Read carefully instruction No. 9 as printed at the back of each sheet of General Form No. 8(A), Traveling Expense Voucher, and be guided strictly thereby.

Wire Supervisors, Inspectors and other supervisory employees should bring this matter to the attention of each and every one of their subordinates and see to it that the same be complied with in all cases.

J. S. ALFONSO
Acting Director of Telecommunications

Department of Commerce and Industry

CIVIL AERONAUTICS ADMINISTRATION

ADMINISTRATIVE ORDER No. 40
Series of 1954

Pursuant to the provisions of section 32, paragraphs 9 and 19 of Republic Act No. 776, Adminis-

trative Order No. 7, approved on March 2, 1953 is hereby amended for the observance of all persons concerned.

SECTION 1. This Administrative Order shall be known as Civil Air Regulations, Part V, as amended, governing Dimensional Units to be Used in Air-Ground Communications, and any reference to said title shall mean as referring to this Administrative Order.

SEC. 2. *Definitions.*—When the following terms are used in these rules and regulations, they shall have the following meanings:

Aeronautical station.—A land station in the aeronautical mobile service carrying on a service with aircraft stations.

Aircraft station.—A radio station located in an aircraft.

SEC. 3. The following table of dimensional units shall be used by aeronautical and aircraft stations for air-ground communications within the Manila Flight Information Region.

TABLE OF DIMENSIONAL UNITS

Distances	Nautical miles and tenths
Altitudes, heights, elevations and dimensions on aerodrome short distances	Feet
Horizontal speed	Knots
Vertical speed	Feet per minute
Wind speed	Knots
Wind direction for landing and taking-off	Degrees magnetic
Wind direction for all other purposes	Degrees true
Cloud altitude and height	Feet
Visibility	Nautical miles (or yards)
Altimeter setting	Millibars and inches
Temperature	Centigrade
Weight	Pounds
Time	Hours minutes, the day of 24 hours beginning at midnight Greenwich mean time

Note 1.—The terms used in these rules and regulations do not apply when standardized or agreed copies are used (e.g. for meteorological information) and such codes require the use of specified dimensional units.

Note 2.—The table prescribes units only, not the degree of accuracy of value expressed nor the procedure for expressing them.

Note 3.—The use of the table shall not be interpreted as contradicting other Parts of the regulations which establish that messages shall be transmitted as written by the originator.

Note 4.—The use of the table shall not preclude the adoption of the ICAO Table of dimensional units.

SEC. 4. When dimensional units are transmitted in messages from aircraft stations to aeronautical stations, the units transmitted shall be from the table published for the aeronautical station to which the communication is addressed.

SEC. 4.1. Aircraft stations whose instruments are calibrated in units not in accordance with the table in section 3 shall be provided with appropriate conversion tables at all times when flying within the Manila Flight Information Region.

SEC. 5. When requested by an aircraft that is temporarily unable to use the published table of the aeronautical station with which it is communicating, the aeronautical station concerned shall transmit dimensions in the units requested by the aircraft.

Note 1.—This provision is introduced to cover cases of temporary inability due to such causes as loss of conversion tables or unserviceability of equipment.

SEC. 6. This Administrative Order repeals Administrative Order No. 7, approved on March 2, 1953, known as Civil Air Regulation, Part V, governing Dimensional Units to be used in Air-Ground Communications, and any rules and regulations inconsistent with the provisions of this Part V governing dimensional units for use in air-ground communications shall be deemed repealed or superseded.

SEC. 7. These rules and regulations shall take effect upon approval.

URBANO B. CALDOZA
Administrator

Approved, July 12, 1954.

OSCAR LEDESMA
Secretary of Commerce and Industry

Central Bank of the Philippines

July 8, 1954

REGULATION A

AGGREGATE LOANS AND ADVANCES A COMMERCIAL BANK MAY GRANT TO A SINGLE INTEREST UNDER SECTION 23 OF THE GENERAL BANKING ACT.

The Monetary Board pursuant to the powers granted to it under the General Banking Act, Republic Act No. 337 as well as under Republic Act No. 265, hereby promulgates the following:

SECTION 1. Limitation on loans and advances to a single borrower for money borrowed, as defined in the first paragraph of section 23 of the General Banking Act.

The total liabilities of any person, company, corporation or firm to a commercial bank for money borrowed shall not exceed 15 percent of the unimpaired capital and surplus of such bank.

The limitation of 15 percent of the capital and surplus shall not apply to the following:

(a) Money borrowed which is secured by obligations of the Central Bank of the Philippines or of the Philippine Government, and money borrowed with the full guarantee by the Government of payment of the principal and interest thereon.

(b) The discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper which are actually owned by the person, company, corporation or association negotiating the same.

(c) The unused portion of "Authority to Pay," locally known as commercial letter of credit, which is issued for the purpose of financing importation of goods.

SEC. 2. Loans and advances permitted under the second paragraph of section 23 of the General Banking Act, in addition to the amount allowed under the first paragraph thereof are the following:

(a) A person, company, corporation or firm may borrow from a commercial banking corporation additional loans and advances not exceeding 15 percent of its unimpaired capital and surplus, as defined in this regulation, provided such additional loans and advances are adequately secured by shipping documents, warehouse receipts or other similar documents transferring or securing title covering readily marketable non-perishable staples.

(b) No bank shall make any additional loan and advance under the second paragraph of the General Banking Act, unless these three requirements are fulfilled:

(1) The actual market value of the staples securing the additional loan or advance is equal to at least 125 percent of such additional liabilities;

(2) The staples are fully covered by insurance; and

(3) The additional loans or advances are adequately secured by the collateral specified in the second paragraph of section 23 of the General Banking Act, and as defined in this regulation.

SEC. 3. *Definition of terms.*—For the purpose of implementing both section 23 of the General Banking Act and this regulation, the following definitions of terms and phrases shall serve as guide.

(a) The term "liabilities" shall mean the direct liability of the maker or acceptor of paper discounted with, or sold to such bank, and the liability of the indorser, drawer, or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such bank, and shall include,

in the case of liabilities of a copartnership or association, the liabilities of the several members thereof; and in the case of liabilities of a corporation, all liabilities of all subsidiaries thereof in which such corporation owns or controls a majority interest.

(b) The term "money borrowed" shall include the direct liability of the maker or acceptor of paper discounted with or sold to such bank; commercial or business paper actually owned and discounted by the person negotiating the same, which are either past due or renewed at maturity; and bills of exchange which exempt the drawer from liability and holds only the acceptor liable.

(c) The term "unimpaired capital and surplus" means the combined capital accounts of such bank, and shall include its paid-in capital and surplus. The term "surplus" shall include the sum of such items representing the excess of the assets over the sum of the liabilities and paid-in capital of the bank, but excluding not only the reserves set aside for valuation purposes, but also reserves set aside to cover liabilities.

(d) "Readily marketable non-perishable staples" within the meaning of section 23 of the General Banking Act shall mean articles of commerce, agriculture or industry of such uses as to make them the subject of constant dealings in ready markets with such frequent quotations as to make their prices easily and definitely ascertainable, or which lend themselves easily to disposal by sale at any time to pay the obligations secured by the said staples and which are non-perishable in character, and reasonably sure of maintaining their values as security at least for the duration of the obligation secured by the said staples or the usage of the draft drawn against them. A staple is not considered readily marketable, if it is imported not for resale, but for the exclusive use of the buyer or the importer; such as, machinery, equipment and construction materials which are to be used exclusively for the construction of the factory or building belonging to the buyer or importer of the said staple.

(e) The term "bill of exchange drawn in good faith against actually existing values" shall mean one which is drawn by a seller on the purchaser for the purchase price of commodities sold. A bill of exchange, whether drawn against goods for exports or against goods to be sold locally, which is discounted or purchased by a bank is a bill drawn against existing values only when it is accompanied by shipping documents, warehouse receipts or other papers securing title to the goods sold. However, bills of exchange drawn in good faith against actually existing values as defined in this paragraph, which are past due or the maturities of which have been extended, shall be considered as additional loans authorized under the second paragraph of section 23 of the General Banking Act, and shall be subject to the 15 percent limitation provided therein.

(f) The term "commercial or business paper actually owned by the person negotiating the same" shall mean a paper arising from an actual business transaction. A trade acceptance or promissory note actually owned by the person negotiating the same is a commercial or business paper. However, if a bill is drawn against an agent or fictitious drawee; or if a promissory note is executed by an agent or fictitious drawee, neither is a commercial nor a business paper. Commercial or business papers actually owned and discounted by the person negotiating the same, which are past due or the maturity of which have been extended, shall be considered as money borrowed and shall be subject to the limitation of 15 percent provided in the first paragraph of section 23 of the General Banking Act.

SEC. 4. Banks shall include in their quarterly report to the Department of Supervision and Examination the following information:

(a) Total liabilities of corporations and their subsidiaries, including the individual liabilities of the officers and directors of such corporation and its subsidiaries, indicating whether or not such corporation owns or controls a majority interest in any or all of those subsidiaries.

(b) Total liabilities of a copartnership and the individual liabilities of each partner or member of the copartnership.

For the Monetary Board:

M. CUADERNO, Sr.
Governor

Certified true copy:

F. STA. ANA
Secretary to the Monetary Board

IMPORT-EXPORT DEPARTMENT

MEMORANDUM TO AUTHORIZED AGENT BANKS No. 57
(Amendment to Regulation No. 10)

Pursuant to a resolution adopted by the Monetary Board at its meeting held on July 20, 1954, subparagraph (d) of paragraph 7, section C, Part III—Importers, has been deleted and a new paragraph 9 added to cover the same point, revised as follows:

"9. To permit switching from one commodity to another commodity under the same category or from a lower category to a higher category, but not vice-versa. Excluded from these provisions are:

(a) switching from any commodity to exchange allocations for flour, leaf tobacco, shoes, textiles, upper leather, rubber heels, rubber soles, rubber sheets and used clothing.

(b) switching from exchange allocations established for flour, leaf tobacco, drugs and medicines, corned beef, milk (HE items), books, X-ray films and agricultural, industrial and mining machineries and parts thereof, and the special allocation for meat and cattle to any other commodity."

It should be understood further that the switching permitted above shall likewise not be applicable in cases of quota allocations granted by the Monetary Board with the condition that such allocations shall be non-shiftable or non-switchable in nature.

CESAR M. LORENZO
Acting Director

Approved by the Monetary Board, July 29, 1954.

F. STA. ANA
Secretary to the Monetary Board

APPOINTMENTS AND DESIGNATIONS

BY THE PRESIDENT OF THE PHILIPPINES

Appointments and Nominations Confirmed by the Commission on Appointments, July 30, 1954

Raul S. Manglapus as Undersecretary of Foreign Affairs, date of appointment, July 17, 1954.

Leon Ma. Guerrero as Ambassador Extraordinary and Plenipotentiary (Chief of Mission, Class I) of the Republic of the Philippines, date of appointment, June 4, 1954.

Felixberto M. Serrano as Ambassador Extraordinary and Plenipotentiary (Chief of Mission, Class I) of the Republic of the Philippines, date of appointment, July 7, 1954.

Manuel Nieto as Envoy Extraordinary and Minister Plenipotentiary (Chief of Mission, Class III) of the Republic of the Philippines, date of appointment, July 7, 1954.

Salvador P. Lopez as Envoy Extraordinary and Minister Plenipotentiary (Chief of Mission, Class III) of the Republic of the Philippines, date of appointment, July 7, 1954.

Mauro Calingo as Minister of Career of the Republic of the Philippines, date of appointment, July 7, 1954.

Tomas G. de Castro as Minister of Career of the Republic of the Philippines, date of appointment, July 10, 1954.

Jose D. Ingles as Foreign Affairs Officer, Class I, with rank of minister, date of appointment, July 10, 1954.

Mauro Mendez as Foreign Affairs Officer, Class I, date of appointment, July 10, 1954.

Juan M. Arreglado as Foreign Affairs Officer, Class I, date of appointment, July 10, 1954.

Simeon Roxas as Foreign Affairs Officer, Class II, date of appointment, July 10, 1954.

Miss Carmen Buyson as Foreign Affairs Officer, Class II, date of appointment, July 10, 1954.

Narciso G. Reyes as Foreign Affairs Officer, Class II, date of appointment, July 10, 1954.

Rodolfo H. Severino as Foreign Affairs Officer, Class III, date of appointment, July 10, 1954.

Alejandro D. Yango as Foreign Affairs Officer, Class III, date of appointment, July 10, 1954.

Policronio de Venecia as Foreign Affairs Officer, Class IV, date of appointment, July 6, 1954, and as Vice-Consul, date of appointment, July 10, 1954.

Delfin S. Sian as Foreign Affairs Officer, Class IV, and Vice-Consul, date of appointment, July 10, 1954.

Ramon Cataumber as Foreign Affairs Officer, Class IV, and Vice-Consul, date of appointment, July 10, 1954.

Leon M. Lazaga as Foreign Affairs Officer, Class IV, and Vice-Consul, date of appointment, July 10, 1954.

Manuel A. Alzate as Minister of Career of the Republic of the Philippines, with a basic salary of P7,500 and excess of actual salary of P1,200 per annum, date of appointment, June 8, 1954.

Mariano Espeleta as Minister of Career of the Republic of the Philippines, with a basic salary of P7,500 per annum, and excess of actual salary of P1,200 per annum, date of appointment, May 21, 1954.

Mrs. Belen S. Bautista as Vice-Consul of the Republic of the Philippines, date of appointment, June 14, 1954.

Pablo A. Peña as Foreign Affairs Officer, Class III, with a salary of P5,400 per annum, date of appointment, May 21, 1954.

Mrs. Belen S. Bautista as Foreign Affairs Officer, Class IV, with a salary of P5,100 per annum, date of appointment, May 21, 1954.

Delfin Sian as Foreign Affairs Officer, Class IV, with a salary of P4,500 per annum, date of appointment, June 25, 1954.

Jose Fornier as Foreign Affairs Officer, Class IV, with a salary of P4,500 per annum, date of appointment, June 14, 1954.

Juan C. Dionisio as Foreign Affairs Officer, Class II, with a salary of P6,900 per annum, date of appointment, May 21, 1954.

Alejandro Galang as Foreign Affairs Officer, Class II, with a salary of P7,200 per annum, date of appointment, June 8, 1954.

Jose S. Estrada as Foreign Affairs Officer, Class II, with a salary of P6,600 per annum, date of appointment, June 24, 1954.

Mrs. Estela M. Sulit as Foreign Affairs Officer, Class III, with a salary of P6,600 per annum, date of appointment, June 12, 1954.

Anastacio B. Bartolome as Foreign Affairs Officer, Class III, with a salary of P5,400 per annum, date of appointment, May 21, 1954.

Mariano Espeleta as Envoy Extraordinary and Minister Plenipotentiary of the Republic of the Philippines, date of appointment, May 21, 1954.

Raul T. Leuterio as Consul General of the Republic of the Philippines, date of appointment, May 21, 1954.

Manuel R. Cumagun as Consul of the Republic of the Philippines, date of appointment, June 15, 1954.

Alejandro Galang as Consul of the Republic of the Philippines, date of appointment, June 24, 1954.

Jose Fornier as Vice-Consul of the Republic of the Philippines, date of appointment, June 15, 1954.

Felino C. Meñez as Foreign Affairs Officer, Class IV, with a basic salary of ₱4,500 per annum, date of appointment, July 19, 1954.

Monico Imperial as Mayor of the City of Naga, date of appointment, May 29, 1954.

Joaquin Abanilla as Member of the Municipal Board of the City of Iloilo, vice Miguel Ledesma, date of appointment, June 22, 1954.

Filomeno Biscocho as Member of the City Council of Baguio, date of nomination, June 27, 1954.

Ladislao Palma as Chairman of the Board of Assessment Appeals of Tarlac, date of nomination, July 21, 1954.

Triunfo P. Alvarico as Provincial Assessor of Negros Oriental, date of appointment, July 17, 1954.

Manuel Cudiamat as Provincial Treasurer of La Union, date of appointment, July 12, 1954.

Agapito Marcelo as Provincial Assessor of Bulacan, date of appointment, July 15, 1954.

Loreto Delgado as Member of the Board of Assessment Appeals of Bukidnon, date of nomination, July 23, 1954.

Bernardo B. Capuz as Provincial Assessor of La Union, date of appointment, May 21, 1954.

Jose P. Trinidad as Undersecretary of Finance, date of nomination, July 28, 1954.

Cirilo Torralba as Chairman of the Board of Assessment Appeals of Ilocos Sur, date of nomination, July 26, 1954.

Jose B. L. Reyes as Associate Justice of the Supreme Court, date of appointment, June 30, 1954.

Teodoro P. Santiago as Mayor of the City of Cabanatuan, date of nomination, July 21, 1954.

Pastor M. Endencia as Presiding Justice of the Court of Appeals, date of appointment, June 30, 1954.

Conrado V. Sanchez as Associate Justice of the Court of Appeals, date of appointment, June 21, 1954.

Fernando Hernandez as Associate Justice of the Court of Appeals, date of appointment, June 21, 1954.

Querube C. Makalintal as Associate Justice of the Court of Appeals, date of appointment, June 21, 1954.

Florentino Saguin as Associate Justice of the Court of Appeals, date of appointment, June 21, 1954.

Mariano Nable as Presiding Judge of the Court of Tax Appeals, date of appointment, June 19, 1954.

Augusto M. Luciano as Associate Judge of the Court of Tax Appeals, date of appointment, June 19, 1954.

Jose Mendoza as District Judge of the Second Judicial District, to preside over the Court of First Instance of Abra, date of appointment, June 21, 1954.

Mrs. Corazon Juliano-Agrava as Judge of the Sixteenth Judicial District, to preside over the Court

of First Instance of Davao and Davao City, Third Branch, date of appointment, June 21, 1954.

Julio Villamor as District Judge of the Second Judicial District, to preside over the Court of First Instance of Ilocos Norte, First Branch, date of appointment, June 21, 1954.

Fidel Villanueva as District Judge of the Second Judicial District, to preside over the Court of First Instance of Ilocos Norte, Second Branch, date of appointment, June 21, 1954.

Francisco Geronimo as District Judge of the Second Judicial District, to preside over the Court of First Instance of Ilocos Sur, First Branch, date of appointment, June 21, 1954.

Eulogio Mencias as District Judge of the Second Judicial District, to preside over the Court of First Instance of Ilocos Sur, Second Branch, date of appointment, June 21, 1954.

Jesus de Veyra as District Judge of the Second Judicial District, to preside over the Courts of First Instance of the City of Baguio and Mountain Province, date of appointment, June 21, 1954.

Jesus P. Morfe as District Judge of the Third Judicial District, to preside over the Courts of First Instance of Pangasinan and Dagupan City, Second Branch (Lingayen), date of appointment, June 21, 1954.

Emmanuel Muños as District Judge of the Third Judicial District, to preside over the Courts of First Instance of Pangasinan and Dagupan City, Fourth Judicial Branch (Dagupan City), date of appointment, June 21, 1954.

Jose N. Leuterio as District Judge of the Fourth Judicial District, to preside over the Courts of First Instance of Nueva Ecija and Cabanatuan City, First Branch, date of appointment, June 21, 1954.

Agustin P. Montesa as District Judge of the Fourth Judicial District, to preside over the Courts of First Instance of Nueva Ecija and Cabanatuan City, Second Branch, date of appointment, June 21, 1954.

Ladislao Pasicolan as District Judge of the Fourth Judicial District, to preside over the Courts of First Instance of Nueva Ecija and Cabanatuan City, Third Branch, date of appointment, June 21, 1954.

Zoilo Hilario as District Judge of the Fourth Judicial District, to preside over the Court of First Instance of Tarlac, Second Branch, date of appointment, June 21, 1954.

Ambrosio Dollete as District Judge of the Fifth Judicial District, to preside over the Court of First Instance of Bataan, date of appointment, July 6, 1954.

Angel H. Mojica as District Judge of the Fifth Judicial District, to preside over the Court of First Instance of Bulacan, First Branch, date of appointment, June 21, 1954.

Arsenio Santos as District Judge of the Fifth Judicial District, to preside over the Court of First

Instance of Pampanga, First Branch, date of appointment, June 21, 1954.

Froilan Bayona as Judge, Sixth Judicial District, Manila, First Branch, date of appointment, June 21, 1954.

Gregorio Narvasa as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Fifth Branch, date of appointment, June 21, 1954.

Hermogenes Concepcion as Judge, Sixth Judicial District, Manila, Sixth Branch, date of appointment, May 21, 1954.

Edilberto Barot as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Seventh Branch, date of appointment, June 21, 1954.

Vicente Santiago as District Judge of the Sixth Judicial District, to preside over the Court of First Instance, Manila, Eighth Branch, date of appointment, June 21, 1954.

Antonio Lucero as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of the City of Manila, Eleventh Branch, date of appointment, June 21, 1954.

Bonifacio Ysip as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of the City of Manila, Twelfth Branch, date of appointment, June 21, 1954.

Bienvenido Tan as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Thirteenth Branch, date of appointment, June 21, 1954.

Magnio Gatmaitan as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Fourteenth Branch, date of appointment, June 21, 1954.

Edilberto Soriano as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Fifteenth Branch, date of appointment, June 21, 1954.

Carmelino Alvendia as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Sixteenth Branch, date of appointment, June 21, 1954.

Arsenio Solidum as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Seventeenth Branch, date of appointment, June 21, 1954.

Ruperto Kapunan, Jr., as District Judge of the Sixth Judicial District, to preside over the Court of First Instance of Manila, Eighteenth Branch, date of appointment, June 21, 1954.

Primitivo Gonzales as District Judge of the Seventh Judicial District, to preside over the Court of First Instance of the Province of Cavite and the Cities of Cavite and Tagaytay, First Branch, date of appointment, June 21, 1954.

Antonio Cañizares as District Judge of the Seventh Judicial District, to preside over the Court of First Instance of Rizal, Quezon City and Pasay City, First Branch (Pasig), date of appointment, June 21, 1954.

Juan P. Enriquez as District Judge of the Seventh Judicial District, to preside over the Court of First Instance of Rizal, Quezon City, and Pasay City, Second Branch (Pasig), date of appointment, June 21, 1954.

Nicasio Yatco as District Judge of the Seventh Judicial District, to preside over the Court of First Instance of Rizal, Quezon City, and Pasay City, Fifth Branch (Quezon City), date of appointment, June 21, 1954.

Juan L. Bocar as District Judge of the Seventh Judicial District, to preside over the Court of First Instance of Palawan, date of appointment, June 21, 1954.

Federico Alikpala as District Judge of the Eighth Judicial District to preside over the Court of First Instance of Laguna and the City of San Pablo, First Branch (Biñan), date of appointment, June 21, 1954.

Teodoro Camacho as District Judge of the Eighth Judicial District, to preside over the Court of First Instance of Laguna and San Pablo City, Second Branch (Sta. Cruz), date of appointment, June 21, 1954.

Manuel Barcelona as District Judge of the Eighth Judicial District, to preside over the Court of First Instance of Batangas and Lipa City, First Branch (Batangas), date of appointment, June 21, 1954.

Luis B. Reyes as District Judge of the Eighth Judicial District, to preside over the Court of First Instance of Batangas and Lipa City, Second Branch (Lipa City), date of appointment, June 21, 1954.

Conrado M. Vasquez as District Judge of the Eighth Judicial District, to preside over the Court of First Instance of Batangas and Lipa City, Third Branch (Balayan), date of appointment, June 21, 1954.

Melquiades Ilao as District Judge of the Ninth Judicial District, to preside over the Court of First Instance of Camarines Norte, date of appointment, June 23, 1954.

Vicente Arguelles as District Judge of the Ninth Judicial District, to preside over the Court of First Instance of Quezon, First Branch, date of appointment, June 21, 1954.

Vicente del Rosario as District Judge of the Ninth Judicial District, to preside over the Court of First Instance of Quezon, Third Branch (Gumaca), date of appointment, June 21, 1954.

Jose Flores as District Judge of the Tenth Judicial District, to preside over the Court of First Instance of Albay and Catanduanes, First Branch, date of appointment, June 21, 1954.

Mateo Alcasid as District Judge of the Tenth Judicial District, to preside over the Court of First Instance of Albay and Catanduanes, Second Branch, date of appointment, June 23, 1954.

Jose L. Moya as District Judge of the Tenth Judicial District, to preside over the Court of First Instance of Camarines Sur and Naga City, Third Branch, date of appointment, June 21, 1954.

Genaro Tan Torres as District Judge of the Tenth Judicial District, to preside over the Court of First Instance of Sorsogon, date of appointment, June 21, 1954.

Roberto Zurbano as District Judge of the Eleventh Judicial District, to preside over the Court of First Instance of Antique, date of appointment, June 21, 1954.

Jose Evangelista as District Judge of the Eleventh Judicial District, to preside over the Court of First Instance of Capiz, Romblon and Roxas City, First Branch (Roxas City), date of appointment, June 21, 1954.

Salvador Esguerra as District Judge of the Eleventh Judicial District, to preside over the Court of First Instance of the Province of Iloilo and City of Iloilo, First Branch, date of appointment, June 21, 1954.

Pantaleon Pelayo as District Judge of the Eleventh Judicial District, to preside over the Court of First Instance of the Province of Iloilo and Iloilo City, Fourth Branch, date of appointment, June 21, 1954.

Felix V. Makasiar as District Judge of the Twelfth Judicial District, to preside over the Court of First Instance of Occidental Negros and Bacolod City, Fourth Branch, date of appointment, June 21, 1954.

Mrs. Cecilia Muños Palma as District Judge of the Twelfth Judicial District, to preside over the Court of First Instance of Negros Oriental and Dumaguete City, First Branch, date of appointment, June 21, 1954.

Inocencio V. Rosal as District Judge of the Twelfth Judicial District, to preside over the Court of First Instance of Oriental Negros, Dumaguete City, and the Subprovince of Siquijor, Second Branch, date of appointment, June 21, 1954.

Clementino V. Diez as Judge of the Court of First Instance, Fourteenth Judicial District, Cebu, First Branch, date of appointment, June 21, 1954.

Jose S. Rodriguez as District Judge of Fourteenth Judicial District, to preside over the Court of First Instance of the Province of Cebu and the City of Cebu, Fourth Branch, date of appointment, June 21, 1954.

Manuel M. Mejia as District Judge of the Fourteenth Judicial District, to preside over the Court of First Instance of the Province of Cebu and the City of Cebu, Fifth Branch, date of appointment, June 21, 1954.

Jose Fernandez as District Judge of the Fifteenth Judicial District, to preside over the Court of First Instance of Bukidnon, date of appointment, June 21, 1954.

Segundo Apostol as District Judge of the Fifteenth Judicial District, to preside over the Court of First Instance of Lanao and Cities of Dansalan and Iligan, date of appointment, June 21, 1954.

Antonio Lacson as District Judge of the Sixteenth Judicial District, to preside over the Court of First Instance of Cotabato, Second Branch, date of appointment, June 21, 1954.

Macapanton Abbas as District Judge of the Sixteenth Judicial District of Sulu and Basilan City, date of appointment, June 21, 1954.

Wenceslao Ortega as District Judge of the Sixteenth Judicial District, to preside over the Court of First Instance of Zamboanga del Norte, date of appointment, July 6, 1954.

Ramon Nolasco as District Judge of the Fourteenth Judicial District, to preside over the Court of First Instance of Cebu, Third Branch, date of appointment, July 6, 1954.

Lucas Lacson as District Judge of the Third Judicial District, to preside over the Court of First Instance of Zambales, date of appointment, July 7, 1954.

Miss Estrella Abad Santos as Judge of the Municipal Court of the City of Manila, date of appointment, June 19, 1954.

Mrs. Minerva R. Inocencio Piguing as Judge of the Municipal Court, Quezon City, Second Branch, date of appointment, June 19, 1954.

Cirilo Maceren as District Judge of the Thirteenth Judicial District, to preside over the Courts of First Instance of the Province of Leyte and the Cities of Ormoc and Tacloban, Third Branch (Masasin), date of appointment, June 21, 1954.

Filomeno Ybañez as District Judge of the Thirteenth Judicial District, to preside over the Courts of First Instance of the Province of Leyte and the Cities of Ormoc and Tacloban, Fourth Branch (Baybay), date of appointment, June 21, 1954.

Ignacio Debuque as District Judge of the Thirteenth Judicial District, to preside over the Courts of First Instance of the Province of Leyte and the Cities of Ormoc and Tacloban, Fifth Branch (Ormoc City), date of appointment, June 21, 1954.

Damaso Tengco as District Judge of the Thirteenth Judicial District, to preside over the Courts of First Instance of the Province of Leyte and the Cities of Tacloban and Ormoc, Sixth Branch (Cari-gara), date of appointment, June 21, 1954.

Ambrocio Padilla as Solicitor General, date of appointment, June 21, 1954.

Antonio H. Noblejas as Commissioner of Land Registration, date of appointment, June 22, 1954.

Pedro S. David as Assistant Provincial Fiscal of Pampanga, with compensation at the rate of Three thousand six hundred (P3,600) pesos per annum, date of appointment, May 21, 1954.

Narciso Peña as Assistant Commissioner of Land Registration, date of appointment, June 22, 1954.

Dalmacio Guillermo as Fifth Assistant Provincial Fiscal of Pangasinan, date of appointment, July 1, 1954.

Jose Villacorta as Assistant City Attorney of Pasay City, with compensation at the rate of P3,600 per annum, date of appointment, May 21, 1954.

Marcelo M. Durias as Register of Deeds of Misamis Occidental, date of appointment, June 11, 1954.

Jaime Oblenda as Register of Deeds of Lanao, date of appointment, June 11, 1954.

Nicetes Abenoja as City Attorney of Ormoc City, date of appointment, July 12, 1954.

Toribio P. Pedrosa as Assistant Provincial Fiscal of Leyte, date of appointment, July 12, 1954.

Gavino Gaviola as Clerk of Court of Maasin, Leyte, date of appointment, June 22, 1954.

Vicente R. Pabello as Clerk of Court of Quezon, date of appointment, May 22, 1954.

Isidro Panlasigui, Jr., as Justice of the Peace of Bauguen and Concepcion, Ilocos Sur, date of appointment, July 19, 1954.

Dimapuro Cesar as Justice of the Peace of Uato and Tugaya, Lanao, date of appointment, July 15, 1954.

Jose de Leon as Justice of the Peace of Luisiana, Laguna, date of appointment, July 1, 1954.

Filemon Aguilar as Justice of the Peace of Alubijid, Misamis Oriental, date of appointment, June 17, 1954.

Jose Valmayor, as Justice of the Peace of Calatrava, Negros Occidental, date of appointment, June 17, 1954.

Narciso Paderanga as Justice of the Peace of Mahinog, Misamis Oriental, date of appointment, June 11, 1954.

Miss Zoila M. Redoña as Justice of the Peace of Palo, Leyte, date of appointment, June 10, 1954.

Elias Pilar as Justice of the Peace of Bacarra, Ilocos Norte, date of appointment, June 9, 1954.

Severino Fontanilla as Justice of the Peace of Batac, Ilocos Norte, date of appointment, June 9, 1954.

Rodolfo Ortiz as Justice of the Peace of Banga, Cotabato, date of appointment, June 8, 1954.

Francisco Sia as Justice of the Peace of Canlaon, Negros Oriental, date of appointment, June 8, 1954.

Bornon Bauzon as Auxiliary Justice of the Peace of Santa Barbara, Pangasinan, date of appointment, June 4, 1954.

Wenceslao Polo as Justice of the Peace of Maripini, Leyte, date of appointment, June 3, 1954.

Feliciano Villablanca as Justice of the Peace of Tunga and Jaro, Leyte, date of appointment, June 3, 1954.

Pedro Pacaña as Justice of the Peace of Baybay, Leyte, date of appointment, June 3, 1954.

Pedro Holgado as Justice of the Peace of Agoncillo, Batangas, date of appointment, June 3, 1954.

Mamintal Tamano as Justice of the Peace of Marantao, Lanao, date of appointment, May 28, 1954.

Jose Cabrera as Justice of the Peace of Toledo, Cebu, date of appointment, May 26, 1954.

Joaquin Hermano as Justice of the Peace of Dueñas and Passi, Iloilo, date of appointment, May 25, 1954.

Teofilo A. Barsana as Justice of the Peace of Ibayat, Batanes, date of appointment, May 25, 1954.

Vicente Quibranza as Justice of the Peace of Caromatan, Lanao, date of appointment, May 24, 1954.

Cauti Lim as Justice of the Peace of Siasi and Tapul, Sulu, date of appointment, May 24, 1954.

Silvino Miralles as Justice of the Peace of Silago, Leyte, date of appointment, May 24, 1954.

Romeo O. Nebriaga as Justice of the Peace of Bayag, Mountain Province, date of appointment, May 22, 1954.

Rufino S. Cortez as Justice of the Peace of Mallig, Isabela, date of appointment, May 21, 1954.

Eusebio Noble as Auxiliary Justice of the Peace of Echague and Angadanan, Isabela, date of appointment, May 21, 1954.

Felix Marasigan as Justice of the Peace of Perez, Quezon, date of appointment, May 21, 1954.

Victorio V. Alcantara as Justice of the Peace of Caoayan and Bantay, Ilocos Sur, date of appointment, May 21, 1954.

Benjamin Estañol as Justice of the Peace of Pigcawayan, Cotabato, date of appointment, June 23, 1954.

Francisco Ortua as Justice of the Peace of Siruma, Camarines Sur, date of appointment, June 28, 1954.

Diosdado Dalena as Justice of the Peace of Sta. Maria, Laguna, date of appointment, July 2, 1954.

Esperidion Frias as Justice of the Peace of Ebro, Borbon, Prosperidad, Bahbah, Aspitia, Los Arcos, Novele and Rosario, Agusan, date of appointment, July 3, 1954.

Sergio Go as Justice of the Peace of Las Nieves, Agusan, date of appointment, June 1, 1954.

Dominador Manzana as Auxiliary Justice of the Peace of Mabitac, Laguna, date of appointment, July 1, 1954.

David Mirando as Justice of the Peace of Balatan, Camarines Sur, date of appointment, July 13, 1954.

Nicomedes Piñera as Justice of the Peace of Sapao, Surigao, date of appointment, July 17, 1954.

Crescenciano Avila as Justice of the Peace of Culaba, Leyte, date of appointment, June 18, 1954.

Lorenzo Plaza as Justice of the Peace of Cortes, Surigao, date of appointment, July 17, 1954.

Eliseo Somera as Justice of the Peace of Pilar, Surigao, date of appointment, July 17, 1954.

Ricardo Payumo as Provincial Fiscal of Zambales, date of appointment, July 20, 1954.

Perfecto A. Reyes as City Engineer of San Pablo, date of appointment, May 21, 1954.

Agapito C. Braganza as Undersecretary of Labor, date of appointment, July 26, 1954.

Gregorio Hernandez, Jr., as Secretary of Education, date of appointment, June 30, 1954.

Antonio F. Garcia as Member of the Philippine Veterans Board, date of appointment, May 21, 1954.

Ner C. Reodica as Deputy Commissioner of the Securities and Exchange Commission, date of appointment July 10, 1954.

Emilio M. Asistores as Deputy Administrator of the Civil Aeronautics Administration, date of nomination, July 29, 1954.

Dr. Nicanor Jacinto as Part-Time Member of the Board of Governors of the Rehabilitation and Finance Corporation, vice Jose Cojuangco, for his unexpired term ending December 16, 1955, date of nomination, July 22, 1954.

Angel Tesoro as Member of the Board of Directors of the National Power Corporation, date of nomination, July 19, 1954.

Felix Salen as Member of the Board of Directors of the Manila Railroad Company, vice Enrique L. Tavas, for a term of one year expiring June 30, 1955, date of appointment, July 1, 1954.

Dr. Jose Leido as Member of the Monetary Board of the Central Bank, vice Jose Yulo, for his unexpired term ending December 23, 1954, date of appointment, June 15, 1954.

Leonides Virata as Member of the Monetary Board of the Central Bank, vice Aurelio Montinola, for his unexpired term ending December 23, 1956, date of appointment, June 15, 1954.

Vicente Lontok as Member of the Board of Regents of the University of the Philippines, vice Teodoro Evangelista, for his unexpired term ending March 20, 1958, date of appointment, May 27, 1954.

Ernesto Sibal as Member of the Board of Regents of the University of the Philippines, vice Pio Pedrosa, for his unexpired term ending August 6, 1956, date of appointment, July 10, 1954.

Dr. Francisco O. Santos as Member of the Institute of Nutrition, for another term expiring December 31, 1957, date of appointment, June 14, 1954.

The Director of Animal Industry as Member of the Institute of Nutrition, for another term expiring December 31, 1958, date of appointment, June 14, 1954.

The Social Welfare Administrator as Member of the Institute of Nutrition, for another term expiring December 31, 1957, date of appointment, June 14, 1954.

The President of the Philippine Federation of Women's Club as Member of the Institute of Nutrition, vice Domingo B. Paguirigan, for his unexpired term ending December 31, 1955, date of appointment, June 14, 1954.

Sixto de la Costa as Full-Time Member of the Board of Governors of the Rehabilitation Finance Corporation, vice Ludovico Hidrosollo, for his unexpired term ending December 16, 1956, date of appointment, July 1, 1954.

Ambrosio Padilla as Member of the Civil Service Board of Appeals, vice Querube C. Makalintal, for his unexpired term ending February 8, 1955, date of appointment, July 10, 1954.

Herman P. Neri as Member of the Board of Directors of the Price Stabilization Corporation, vice Juan Cojuangco, for his unexpired term ending October 2, 1956, date of appointment, July 14, 1954.

Eligio C. Herrera as Member of the Board of Directors of the National Shipyards and Steel Corporation, for a term expiring October 23, 1955, date of nomination, July 27, 1945.

Designations by the President

Jorge Sanchez as Provincial Governor of Lanao, July 7, 1954.

Nicanor Jacinto as Governor, RFC, July 22, 1954.
Zoilo Trota as Member, Provincial Board of Leyte, July 24, 1954.

Francisco Paraan as Chief of Police, Baguio City, July 15, 1954.

Anselmo Alquinto as Member, Board on National Pantheon, July 23, 1954.

Antonio L. Perez as Member, Provincial Board of Antique, July 17, 1954.

Pedro Sabido as Ambassador Extraordinary and Plenipotentiary of the Republic of the Philippines, date of appointment, July 28, 1954.

Jose Fuentebella as Ambassador Extraordinary and Plenipotentiary (Chief of Mission, Class II) of the Republic of the Philippines, date of nomination, July 23, 1954.

Raul S. Manglapus as Member, National Economic Council, July 29, 1954.

Jesus Vargas as Temporary Lt. Gen. AFP, August 3, 1954.

Gregorio B. Veluz as Councilor, Quezon City, August 2, 1954.

Benigno S. Aldana as Assistant Director of Public Schools, August 2, 1954.

Pacifico Lagustan as Provincial Governor, Marinduque, July 30, 1954.

Gavino Solidum as Member, Provincial Board of Capiz, August 6, 1954.

Genaro Bomediano as Provincial Governor, Misamis Occidental, August 6, 1954.

Ricardo Villamil as Councilor, Dagupan City, August 6, 1954.

Enrique J. Mora as Member, Board of Examiners for Marine Officers, August 14, 1954.

Rafael Mascariñas as Chief of Police, Davao City, August 11, 1954.

Manuel Felizardo as Chairman, Board of Directors, NPC, August 11, 1954.

Jose Dorado as Director, NASSCO, August 11, 1954.

Vicente de Lara as Provincial Governor, Misamis Oriental, August 16, 1954.

Pedro Buclatan as Councilor, Tacloban City, August 7, 1954.

Francisco Licuanan, Jr., as Member, Board of Electrical Engineering Examiners, August 22, 1954.

Emeterio Asinas as President, Mindanao Institute of Technology, August 17, 1954.

Jose Samson as Director, Philippine Tobacco Administration, August 16, 1954.

Ireneo V. Bernardo as City Attorney, Tagaytay, August 14, 1954.

Eduardo Reyes as Administrator, PHILCOA, August 16, 1954.

Santiago Gancayco as Administrator, PHILCUSA, August 16, 1954.

Juan Alano as Administrator, PHILCOA, August 16, 1954.

Benjamin Salvosa as Chairman, Board of Administrators, PHILCOA, August 16, 1954.

Pedro G. Guiang as Second Assistant Director of Public Schools, August 21, 1954.

HISTORICAL PAPERS AND DOCUMENTS**PRESIDENT RAMON MAGSAYSAY'S LETTER TO SENATOR
CLARO M. RECTO, August 11, 1954**

DEAR SENATOR RECTO:

RELATIVE to Senate Resolution No. 26, authorizing the Senate Committee on National Defense and Security to inquire into an aspect of our military situation, I would like to inform you that for reasons of national security which I deem imperative, I have directed General Alfonso Arellano to discontinue his own investigation of the matter.

I do sincerely believe that, in the wake of recent explosive developments in the international scene, particularly in the Far Eastern theater, there arises to my mind, a compelling necessity for all concerned to discontinue investigations of the foregoing matter. Inasmuch as General Arellano has already dropped his own investigation, may I suggest that the Senate Committee likewise forego its own investigation for reasons herein alluded to.

It will interest you to know, I am sure, that I was responsible for the relief of Lt. Col. Conrado Rigor and three other officers and for the withdrawal from circulation of the publication wherein the article of Lt. Col. Camins appeared.

Trusting that you will see eye to eye with me in the wisdom of the discontinuance of the Senate investigation, and with renewed assurances of my highest esteem, I am

Sincerely yours,

RAMON MAGSAYSAY

**PRESIDENT MAGSAYSAY'S MESSAGE TO PRESIDENT EISENHOWER,
August 12, 1954**

ON the eve of our first national observance of Philippine-American Day which I have proclaimed for August 13, formerly Occupation Day, may I on behalf of my people and on my own extend hearty greetings to you and through you to the American people and make acknowledgment of our deep appreciation and gratitude for all that America has done during the last half century to help us attain the high state of progress and security we enjoy today. I wish to reiterate our abiding faith in the altruism and spirit of justice of your people and our assurances of loyal friendship and utmost cooperation in your every endeavor to insure freedom and peaceful progress for all peoples. We are proud to have been identified with you all these years and it is our hope that we

may be able to continue for a long time to come this pleasant and fruitful relationship in a manner that assures both our peoples a maximum of economic strength, security, and happiness. It may interest you to know that on this occasion I am opening Corregidor and Bataan to the public and dedicating them as shrines to all free men by way of tribute to the memory of the Philippine-American heroes who fell or served there and whose spirit of sacrifice inspired Philippine-American Day.

THE PRESIDENT'S STATEMENT ON THE OCCASION OF
PHILIPPINE-AMERICAN DAY

ON the occasion of the observance of Philippine-American Day, I have proclaimed Bataan and Cooregidor as national shrines and declared them open and freely accessible to the public, to our people as well as to all peoples of the free world, so as to afford them the opportunity to draw fresh inspiration from the deathless spirit of heroic and loyal Philippine-American comradeship in the defense of democracy in the last war.

In the commemoration of a day dedicated to symbolize the spirit of unity among Filipinos and Americans and to celebrate the magnificent achievements that have been made possible by the historic association of our two nations during the last half century, we cannot do better than to do honor to the memory of the valiant defenders of Bataan and Corregidor whose common determination not only assured the advent of our independence but also earned for us a station high in the esteem of all free men. I am convinced that the security of our nation and the permanent welfare of our people can best be served by a policy of mutual confidence and close collaboration among Filipinos and Americans in the spirit of Corregidor and Bataan.

PRESIDENT EISENHOWER'S RADIO MESSAGE TO
PRESIDENT MAGSAYSAY

THANK you for your kind message informing me of your designation of August 13th as Philippine-American Day. The American people look back with pride on the long and friendly association which in a spirit of mutual cooperation has forged the strong ties now existing between us. I welcome your decision to open Bataan and Corregidor to the public as a symbol of the great sacrifices made by Filipino and American soldiers in their struggle for a better world. Based on the firm foundation of the past, Philippine-American friendship will surely continue to contribute to the strength of the free world.

PRESIDENT MAGSAYSAY'S MESSAGE ON THE OCCASION OF THE
POPULAR PHILIPPINE-AMERICAN DAY DINNER, August 13, 1954

FRIENDS AND FELLOW COUNTRYMEN:

IN greeting you on the occasion of your popular dinner climaxing the festivities on Philippine-American Day, may I congratulate the joint committee for the excellent program it has organized on such short notice and for its exceptional success in arousing wide public interest in the aims that inspired my proclamation dedicating August 13 to the lofty ideal of American friendship and unity. The general response, not only here in the Philippines but also in the United States, fully justifies my faith that the peoples of both countries, apart from their respective governments, firmly believe in the policy of close collaboration between the two nations as a means of assuring themselves peace, progress, and security.

While the inspiration and the initiative to celebrate Philippine-American Day were mine, it pleased me immensely to have observed that participation has been community-wide and I take this to be indicative of favorable popular reaction and clear support of the policies and objectives of my administration, especially in our relations with the American people. Having proved so well your capacity for spontaneous and extensive organization to rally to a good cause, I urge you to carry on in the spirit of Philippine-American Day with your share of the tasks that we need to undertake to safeguard our common interests during these dangerous times in which we live. With a strengthened spirit of solidarity between Americans and Filipinos, we shall overcome all our difficulties and march ahead towards the high goals we have set for our endeavors.

PRESIDENT MAGSAYSAY'S APPEAL FOR UNSTINTED SUPPORT OF
ANTI-TUBERCULOSIS FUND CAMPAIGN, August 18, 1954

MY COUNTRYMEN:

EVERY year, at this time, the Philippine Tuberculosis Society inaugurates its fund campaign for the struggle against that killer, tuberculosis. I assume there is deliberate design in the choice of this date, which is the eve of President Quezon's birth anniversary. President Quezon was one of the tragic victims of this killer—tragic because such a man like him comes rarely to a people—and by associating the fight against tuberculosis with his loss, our people better appreciate the destructive force of this disease and the deadly toll that it takes.

But even President Quezon's loss, irreparable though it was, affords us only a glimpse of the terrible drain on our human resources caused by this disease. Up to this day,

tuberculosis remains the number one killer of our people. Even as I am talking to you, thousands of our countrymen are dying and suffering from the disease.

Yet, despite all this, we have reason to view the situation with courage and confidence. Yearly, medical science is turning up better and more effective drugs to cure the disease. Methods of immunity are being perfected. More and more of our people are acquiring those habits of healthful living which constitutes the strongest defense against tuberculosis.

In brief, we are winning the fight against this disease. We are winning the fight because, among other things, we have had generous support and assistance from our more fortunate countrymen. They have provided the Philippine Tuberculosis Society, and the personnel and services that it supports, with the means to fight a winning battle against this menace.

As in most battles, however, this is one fight where we cannot afford to relax, for the enemy is treacherous. We must not only hold our gains but maintain the offensive. We must continue to have the support and assistance we have obtained in the past. We must continue pressing until the enemy is completely and permanently defeated.

I appeal this evening for your unstinted support of this year's anti-tuberculosis fund campaign. We have set ambitious goals for our country and people, goals that we can attain only with the full utilization of our human resources. We must conserve and preserve these resources against the crippling inroads of tuberculosis, and we can do it, provided you support, generously and unselfishly, those who man the front-lines of this struggle.

It is now my privilege to declare open the 1954 fund drive of the Philippine Tuberculosis Society, and my pleasure to start it off with my own contribution.

PRESIDENT MAGSAYSAY'S MESSAGE ON QUEZON' DAY PROGRAM,
August 18, 1954

MY FRIENDS:

I am happy to greet our people through this Quezon Day program under the sponsorship of the officials and residents of Quezon City.

There is one aspect of President Quezon's life that I wish to dwell upon in this brief message. This was the missionary zeal with which he served his country and people.

From early youth up to his dying breath, Quezon's one consuming passion was to serve his people—serve them unselfishly and devotedly. This was the spirit that fired him with courage to risk his life as a young officer in the patriotic forces that fought in the Revolution. It guided

his every act and move as a public servant. It was the inspiration of his most brilliant years, when finally he was chosen by his people to lead them through the crucial tests and trials that were to lead to full independence.

As we remember tonight the life and works of the man that we honor, let us remember to what high purpose that life and those works were dedicated. They were dedicated to the service of the people, to the promotion of their welfare and happiness.

When this Administration assumed its responsibilities, I said I would require of every public servant that he serve the people with missionary zeal. This requirement, this standard, has not changed. I want to impress it anew upon our public officials and government employees, on this day of remembering one who had served his people with such zeal.

PRESIDENT MAGSAYSAY'S STATEMENT ON GUAM LABOR,
August 19, 1954

IN view of the controversial and contradictory statements and reports which have been made public since the investigations of Guam labor commenced several months ago, I feel that it is necessary to clarify the government's position on this matter.

We shall continue our efforts to seek continually improving wages and conditions for our citizens on Guam and on any other possession of the United States. We feel certain that the publicity attendant to the Guam investigations and to these efforts will not be misconstrued by the American Government as lack of appreciation on our part of the fact that so many of our citizens have been offered employment opportunities in Guam and elsewhere.

Thousands of our citizens are directly or indirectly affected by the overseas employment opportunities which have been extended to them. I wish to make it clearly understood that my administration earnestly hopes and desires that the American Government will continue to give our people such opportunities under the best obtainable conditions, and that these opportunities will increase in the future.

PRESIDENT MAGSAYSAY'S SPEECH AT THE QUEZON DAY DINNER
GIVEN BY THE LIONS, AT THE MANILA HOTEL, THURSDAY
EVENING, August 19, 1954

MY COUNTRYMEN:

TODAY we pause in our tasks to honor the memory of a great Filipino, a great leader and a courageous fighter. Manuel Quezon in his lifetime fought two great battles. One was against the killer, tuberculosis.

The other was for the freedom of his people and his native land. I like to think that Manuel Quezon was the victor in both battles. He refused to yield to the wounds of disease until victory was assured in the fight for freedom.

Among our heroes, the life and wisdom of Quezon have special meaning for our generation. His experience was rich with the lessons of the past, but he had the imagination and practical foresight to think and act for the future. He did not claim to be a scholar. He did not claim to be a philosopher. His was the alert mind of the practical statesman. He knew the problems of his people as he knew the palm of his hand. And he had a broad understanding of the complex modern world in which they had to be solved. With these qualities, he guided our nation within sight of victory. Then his frail body demanded rest, and other hands took up the "good fight."

Manuel Quezon was a realist. He knew the weakness of his people, and he knew their strength. He knew the power that lay in the Filipino passion for freedom, but he knew also that there was danger to that freedom in our habits of political and sectional rivalry, in personal ambition and pride. That was why, in his later years, one idea was uppermost in Quezon's mind. He pleaded, he argued, and he fought for *unity*. Today, more than at any other time in our history, we need those qualities and those ideals of Manuel Quezon. We need firm and honorable principles to guide us. We need practical and realistic thinking to steer our course. We need the bigness of spirit that will give our every act the strength of a United Filipino nation.

As citizens of such a united nation, each of us needs a re-orientation of our thinking in terms of the world in which our nation exists. We must come to recognize, whether we like it or not, that we do not live and we cannot live apart from the rest of the world. On the contrary, we are a living and active part of that world. What we do has some effect on the lives of peoples of other lands. What happens in the world outside has some effect on the daily life of each and every one of us here in the Philippines. It is important that an understanding of this vital fact reach into every home, into every barrio of our land.

It is important to broaden our outlook to include the world because what happens across the seas may affect the life and future even of a new-born child in some remote barrio of this country. Let me cite an example: There was some amusement recently when I imposed a ban upon the slaughter of our traditional work animal, the carabao. It seemed so small a problem alongside many others. But since that time there has been a tragic change in the world. Half of Indo-China, our neighbor only hundreds of miles to the west, has disappeared behind the Iron

Curtain, and the rest is threatened. This becomes meaningful to the humblest *tao* when we recall that some of our rice shortages have been made up by imports from that unhappy land. Should that source and others be closed to us, should fuel for our tractors become scarce, should a troubled world bring these and other hardships upon us, the unslaughtered carabao and his offspring become much more important. Put to work on our idle hectares, they might well mean the difference between starvation and survival.

That is what I mean by the longer and broader view. Each one of us must learn to think and act from this perspective. Only with such awareness can we reach wise decisions and take effective action.

Some of you may shrink from this heavy responsibility. You may say, we have had enough of war and hardship. Can we not stand apart and let other fight if they insist? I wish I could say yes, but the answer is no. I am convinced, and the great majority of our statesmen and experts agree, that we have no choice, that there is no safe neutral position to take. If there is to be a war, our islands lie in the path of conflict. If aggression is to continue short of world war, we are high on the list of victims. Our only chance for peace is to work to stop aggression by adding our strength to the strength of a united free world. Our hope for survival as a free people lies in the survival of that free world.

Some of you may ask, so soon after fighting and winning a war against dictators and aggressors, why is the world again a fearful and dangerous jungle? There is some confusion in people's minds about the answer to this. Let me try to state it simply. It is a conflict between those who support the right of all peoples to freedom and self-determination, and the ambition of a new imperialism to dominate and rule the world.

If we examine a list of the nations of the free world, we are struck by the variety of political, economic, and social systems that co-exist and cooperate in peace. Spain, England, Sweden, India, Burma, the United States—these countries are governed under different systems. What is noteworthy is that they all live in peace and respect each other's rights as self-governing peoples.

In conflict with these nations is a group of imperialist Communist nations. What sets them apart from us is their self-admitted program of aggression and conquest.

From their world headquarters in Moscow, they use duplicity to recruit agents in non-Communist lands. These agents, setting themselves up as the Communists parties of the countries in which they operate, are instructed and guided by their alien masters in a systematic campaign to

undermine and overthrow the legal governments of their own nations. When sabotage and propaganda fail to do the job, they are given soldiers and arms to complete it by violence. The main Communist propaganda machine tries to sell the fiction that these operations are "national liberation" movements, but there is overwhelming evidence from their own presses that it is a systematic plan of aggression designed to be used in every free country of the world.

This description is not just a theory. It is the plan that aggressive international Communism distributes to its agents throughout the world in countless books and periodicals that anyone can read. This is what has destroyed world peace. This is the program of aggression which we of the free world are resisting today, and must continue to resist if we wish to stay on this side of the Iron Curtain. Not only must we continue to resist it singly, but we must stop its advances in collaboration with countries which share our ideals and aspirations.

Each new conquest means a stronger aggressor. The people of conquered lands become slave labor. Their resources become war material for the aggressors next venture. Unless the free world take steps to stop the slow erosion of its strength, the time is not too far off when the aggressors will have captured the material strength for a massive aggression which might end freedom on the face of the earth. That is what troubles the world today and lays the cold hand of fear on every one of us.

What is the answer for us? As I have already pointed out, there is no safety in neutralism because the aggressors do not respect either moral principles or international law. I have said before and I still firmly believe, that the only hope to *avert* a war, and the only way to *win* a war if it is forced upon us, is through the united action of the free world.

Next month, some of the free nations will meet here in the Philippines to discuss the problem and try to work out a solution. We hope to find unity among them, but it is imperative that we assure unity among ourselves. Manuel Quezon foresaw this need, and today's events prove his wisdom.

The unity which Quezon asked from his people is what we need now to guard our freedom and assure our survival. We can achieve such unity only if we face the fact that our domestic successes and our domestic failures will mean little if we ignore the storm-signals of the outside world. We must stop thinking of ourselves as Ilocanos or Visayans, as Nacionalistas or Democrats or Liberals, as Christians or Moros. We must think of ourselves as citizens of the Filipino nation, the Republic of the Philippines. Whoever puts

personal or sectional considerations above the interests of the Republic, betrays the principles and ideals upon which the Republic is founded. He betrays the memory of Manuel Quezon. He betrays his own heritage as a Filipino.

Today our thinking must be national. We must think in terms of developing our whole economic strength. We must provide for the physical and mental health of our whole population. We must tighten and reinforce our defenses against the enemy inside as well as outside our shores. We must bring into action the full strength of our human and material resources. We must clear our minds and spirits of all doubt and indecision. We must forge strong ties of common determination, common purpose, and common action with all who think as we do. We must do these things because we have an obligation to our past, to the memory of Quezon and of those who preceded him. Our obligation is to spare no effort, no sacrifice, to preserve what they fought to secure—Filipino freedom.

PRESIDENT MAGSAYSAY'S LETTER TO DR. LAUREL

August 23, 1954

MY DEAR SENATOR LAUREL:

IN ORDER to secure a reexamination of Philippines-U. S. trade relations, particularly in relation to the Executive Agreement under the terms of the Philippine Trade Act of 1946, I hereby authorize you to proceed to the United States as Chairman of the Philippine Delegation to meet with the delegation which has been appointed by the President of the United States. I also authorize you to work for the settlement of all the financial claims of the Republic of the Philippines on the Government of the United States, which was recommended in the Report of the U. S. Economic Mission to the Philippines in 1950. I authorize you further to take up with the American Delegation such other related matters as may have bearing on the economy of our country, in general.

You will be accompanied by Senator Gil J. Puyat and Governor M. Cuaderno, Sr., as members of the Philippine Delegation. You may take along such other members of the Delegation and the Technical Panel as may be needed.

With my very best wishes,

Very sincerely yours,

RAMON MAGSAYSAY

THE HONORABLE JOSE P. LAUREL
Philippine Senate
Manila

PRESIDENT MAGSAYSAY REITERATES POLICY AGAINST GIFTS
August 25, 1954

GIFT-GIVING is a fine Christian tradition. I believe in it, practiced properly. Yet on my birthday anniversary, I would like to request my friends to dispense with gift-giving as a gesture of their good wishes, because their personal greetings will be valuable enough for me. They know it has been my policy to decline material tokens on this or any other occasion, and I am glad that they have always respected my wishes in this regard, thus avoiding embarrassments.

My well-wishers will make me happier if they turned over the equivalent of whatever they might have planned to give me, to the Liberty Wells Association, or to any other civic or charitable project of their choosing. Such a present I would truly cherish and appreciate, for it would redound to the betterment and welfare of our people.

DECISIONS OF THE SUPREME COURT

[No. L-6636. August 2, 1954]

DAMASO CABUYAO, plaintiff and appellant, *vs.* DOMINGO CAAGBAY, ET AL., defendants and appellees

1. EXTRAJUDICIAL PARTITION; AFFIDAVIT OF EXTRAJUDICIAL ADJUDICATION; REQUISITES.—An affidavit of extrajudicial adjudication suffices to settle the entire estate of the decedent if the following conditions are present, namely: (a) that the decedent left no debts; and (b) that the heirs and legatees are all of age, or the minors are represented by their judicial guardian.
2. ID.; ID.; JUDICIAL DECLARATION TO SUCCEED DECEASED, NOT NECESSARY TO ASSERT A CAUSE OF ACTION AS AN HEIR.—Where the pleadings in question alleged, and it was not denied, (1) that plaintiff was the sole heir of the decedent, (2) that he was of age, and (3) that the decedent left no debts—he has a right to assert a cause of action as an alleged heir without judicial declaration to that effect.

APPEAL from an order of the Court of First Instance of Quezon. Santiago, J.

The facts are stated in the opinion of the court.

Jose L. Desvarro for the plaintiff and appellant.

Ed. Espinosa Antona for the defendants and appellees.

CONCEPCION, J.

This is an appeal from an order of the Court of First Instance of Quezon dismissing civil case No. 5308 of said court.

It appears that said case was instituted on April 9, 1952. In the original complaint, plaintiff-appellant Damaso Cabuyao alleged that he is the "lone compulsory heir" of the spouses Prudencio Cabuyao and Dominga Caagbay, who died leaving the eleven (11) parcels of land therein described, and that, although plaintiff had adjudicated said properties to himself, pursuant to section 1 of Rule 74 of the Rules of Court, the corresponding transfer certificates of title could not be issued in his name because the original owner's duplicate certificates were being withheld by the defendants, Domingo Caagbay and Eugenio Caagbay, who had also taken possession of said parcels of land, and would continue unlawfully using the same and committing acts of dispossession thereof, unless enjoined by the court. Hence, he prayed that a writ of preliminary injunction be issued against the defendants and that, thereafter, judgment be rendered; (a) sentencing them to vacate said lands, to turn them over to the plaintiff, and to indemnify him in the sum of ₱4,000; (b) "removing clouds and quieting title of the plaintiff" over said properties; and (c) ordering the defendants to surrender

to him or to the Register of Deeds the aforesaid owner's duplicate certificates of title and, should they fail to do so, to order the cancellation thereof and the issuance of the corresponding transfer certificates of title in favor of the plaintiff.

On April 21, 1952, defendant filed a motion to dismiss for lack of "jurisdiction over the subject-matter," the original complaint being entitled "Unlawful Entry and Detainer." By an order, dated April 29, 1952, plaintiff was required to file an amended complaint, stating therein the date on which the defendants had seized the properties in dispute and their grounds therefor.

On April 30, 1952, plaintiff moved for the admission of an amended complaint, which excluded Eugenio Caagbay as party defendant, and included, as such, Vicente, Ireneo, Antonio, Emilio, Aurea and Feliza, all surnamed Caagbay. Stating that plaintiff's counsel was "converting this simple case into a complicated one", the court, by an order dated June 4, 1952, granted plaintiff another five (5) days within which "to file an amended complaint, in accordance with section 3, Rule 17 of the Rules of Court," setting forth the data required in the order of April 29, 1952. In compliance therewith, plaintiff filed, on June 12, 1952, an amended complaint, which the defendants sought to be dismissed upon the ground that "plaintiff has no legal capacity to sue," there being no allegation that "plaintiff had been judicially declared lone compulsory heir" of the deceased spouses Prudencio Cabuyao and Dominga Caagbay. On motion of the defendants, dated July 5, 1952, the court issued, on July 22, 1952, an order dismissing the case, with costs against the plaintiff, for the reason that, "under the facts and circumstances of this case, as disclosed by the pleadings, no action can be maintained until a judicial declaration of heirship has been legally secured."

Soon later, or on August 1, 1952, plaintiff moved for the reconsideration of said order of July 22, 1952, and for the admission of another amended complaint thereto attached. In this pleading, plaintiff alleged that he owns the parcels of land above-mentioned, having acquired the same by inheritance from his parents, Prudencio Cabuyao and Dominga Caagbay, who died on April 8, 1919 and August 14, 1944, respectively; that despite the above mentioned extrajudicial adjudication of said properties made by plaintiff in his favor, as the "only issue and/or successor" of his aforementioned parents, pursuant to section 1 of Rule 74 of the Rules of Court, the corresponding transfer certificates of title could not be issued in his name, the owner's duplicate of the original certificates of title having been taken by the defendants, who are nephews and nieces of the deceased Dominga Caagbay, except defendant Domingo Caagbay, who is her brother; that, upon the death,

of Dominga Caagbay on August 14, 1944, the defendants took possession of the lands in dispute and have continuously enjoyed the fruits and rents thereof, aggregating P4,000; and that the defendants will continue unlawfully exercising and/or claiming ownership over said properties and violating plaintiff's dominical rights, unless a writ of injunction be issued against them. The prayer in the last amended complaint reads:

"WHEREFORE, it is hereby respectfully asked that a preliminary injunction be issued against the defendants their representatives, tenants, or any other person receiving instructions from them or acting in their behalf prohibiting them from re-entering the lands above-described or collecting the fruits thereof, for which purpose plaintiff is willing and ready to file corresponding bond, and after due hearing, judgment be rendered:

(a) removing clouds and quieting the title of the plaintiff over the properties in question and ordering the defendants to vacate and restitute said properties to the herein plaintiff;

(b) ordering said defendants, jointly and severally to pay the herein plaintiff the amount of Four Thousand Pesos (P4,000) as damages;

(c) ordering the defendants to surrender to the Register of Deeds of the province, or to herein plaintiff the titles of the lands above described and, in case of failure to do so to order the cancellation of said titles and to issue corresponding duplicates in the name of the herein plaintiff, upon payment of the corresponding fees; and to pay costs of this suit.

PLAINTIFF, prays for any other relief or remedy just and equitable in the premises."

Attached to said pleading was plaintiff's affidavit of extrajudicial adjudication (Exhibit A), as well as the documents appended thereto, namely: the death certificate of Prudencio Cabuyao (Annex A); the certificate of burial of Dominga Caagbay (Annex B); and the baptismal certificate of plaintiff Damaso Cabuyao (Annex C). In said Exhibit A, plaintiff declared that he was born in Tayabas on December 15, 1896, "the only child or heir of the espouses Prudencio Cabuyao and Dominga Caagbay," both deceased and that said espouses owned the real properties in question, and left no debts whatsoever, and prayed that the corresponding transfer certificates of title be issued in his name. It appears from Annex A, that Prudencio Cabuyao, married to Dominga Caagbay, died on April 8, 1919 and was buried in Tayabas, Quezon, the next day. Annex B shows that Dominga Caagbay, widow of Prudencio Cabuyao, was buried in Tayabas, Quezon, on August 5, 1944. Annex C states that Damaso Cabuyao, the legitimate son of Prudencio Cabuyao and Dominga Caagbay, who were lawfully married, was born on December 10, 1896, and was christened by the parish priest of San Miguel Arcangel, Tayabas, province of Quezon, on December 13, 1896.

Defendants objected to said motion for reconsideration and to the admission of the amended complaint and, on August 6, 1952, the court issued the following:

ORDER

"AFTER considering plaintiff's motion for the reconsideration of the order of July 22, 1952, and the admission of the amended complaint thereto attached and defendant's opposition thereto, this Court has arrived at the conclusion that said motion should be, as it is hereby, DENIED for lack of merit. As stated in the order of the reconsideration of which is prayed, it is impossible for plaintiff to maintain the action in this case because he and the party defendants alleged to be the heir of the same decedents and there has been no showing that they have been judicially declared as heir of the deceased. Once the question of who are the heirs is determined, it may not be necessary for the plaintiff to file the complaint in this case." (Amended Record on Appeal, pp. 49-50.)

Plaintiff has appealed to this Court, and now he contends:

I. That the court below erred in sustaining the motion to dismiss dated July 15, 1952.

II. That the court below erred in holding that 'in this case no action can be maintained until a judicial declaration of heirship has been legally secured'.

III. That the court below erred in denying the motion for reconsideration dated July 21, 1952, and in not giving due course to the second amended complaint." (Brief for appellant, p. 3.)

In the pleadings in question, it is alleged and, in the orders and briefs before us, it is not denied, that the lands in dispute belong originally to the spouses Prudencio Cabuyao and Dominga Caagbay, who were legally married; that plaintiff Damaso Cabuyao is their "lone" legitimate child; and that the defendants are nephews and nieces of Dominga Caagbay, except of defendant Domingo Caagbay who is her brother. The only question for determination before us is whether, under the foregoing facts, which, for purpose of this appeal, must be assumed to be true, plaintiff has a cause of action to recover the properties in dispute and to quiet his alleged title thereto. The defendants maintain, and the lower court held, that plaintiff's alleged right to succeed the deceased must be settled by a judicial declaration to such effect before said cause of action could be asserted in his favor. This view is, however, in conflict with the law and with a rule well established in our jurisprudence. Section 1, of Rule 74 of the Rules of Court reads:

"If the decedent left no debts and the heirs and legatees are all of age, or the minors are represented by their judicial guardians, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action of partition. *If there is only one heir or one legatee, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds.* It shall be presumed that the decedent left

no debts if no creditor files a petition for letters of administration within two years after the death of the decedent." (*Italics supplied.*)

Pursuant thereto, plaintiff's affidavit of extrajudicial adjudication in his favor sufficed to settle the estate in question, if the following conditions are present, namely; (a) that the decedents left no debts and (b) that heirs and legatees are all of age, or the minors are represented by their judicial guardians. The presence of the first requirement is presumed, no creditor having filed a petition for letters of administration within two (2) years after the death of the decedents. The allegations of the original and the amended complaints—which, for the purpose of this appeal, should be regarded as true—show that plaintiff is the sole heir of the decedent, that he is of age, and that the second requirement is, likewise, present. Hence, plaintiff can not be denied the full force and effect of the provision above quoted.

Morover, the Spanish Civil Code, which was in force when the events material to the issue before us took place, provided:

"ART. 657. The rights to the succession of a person are transmitted *from the moment of his death.*

ART. 661. Heirs succeed to all the rights and obligations of the decedent *by the mere fact of his death.*"

Thus, as early as 1904, this Court entertained, in the case of *Mijares vs. Nery* (3 Phil., 195), the action of an acknowledged natural child to recover property belonging to his deceased father—who had not been survived by any legitimate descendant—notwithstanding the absence of a previous declaration of heirship in favor of the plaintiff, although the latter's claim did not prosper for it was predicated upon the theory that the defendant—as illegitimate children of the deceased pursuant to the laws of Toro, which were in force at the time of their birth—had no right to succeed their common father, and such pretense was not sustained, the latter having died after the promulgation of the Civil Code of Spain, under the provisions of which said defendants were, likewise, acknowledged natural children, and, as such, had the same rights as the plaintiff.

The right to assert a cause of action as an alleged heir, although he has not been judicially declared to be so, has been acknowledged in a number of subsequent cases.

"The property of the deceased, both real and personal, became the *property of the heir by the mere fact of death* of his predecessor in interest, and he could deal with it in precisely the same way in which the deceased could have dealt with it, subject only to the limitations which by law or by contract were imposed upon the deceased himself. * * *" (*Suiliong & Co. vs. Marine Insurance Co., Ltd. et al.*, 12 Phil., 13, 19.)

"Claro Quison died in 1902. It was proven at the trial that the present plaintiffs are the next of kin and heirs, but it is said by the appellant that they are not entitled to maintain this action because there is no evidence that any proceedings have been taken in court for the settlement of the estate of Claro Quison, and that, without such settlement, the heirs can not maintain this action. There is *nothing* in this point. As well by the Civil Code as by the Code of Procedure, the title to property owned by a person who dies intestate passes at once to his heirs. Such transmission is, under the present law, subject to the claims of administration and the property may be taken from the heirs for the purposes of paying debts and expenses, but *this does not prevent the immediate passage of the title*, upon the death of the intestate, from himself to his heirs. Without some showing that a judicial administrator had been appointed in proceedings to settle the estate of Claro Quison, the right of the plaintiffs to maintain this action is established. (Quison *vs.* Salud, 12 Phil., 109, 113-114.)

"It is alleged in the complaint that the plaintiff, Silvestra Lubrico, is an only child, and therefore the sole general heir of the original owners of the property, and no proof was offered at the trial to show that there was any other descendant entitled to succeed besides the plaintiff, who, on her part, has shown herself to be the legitimate daughter of the late Guillermo Lubrico and Venancia Jaro.

If heirs succeed the deceased by their own right and operation of law in all his rights and obligation by the mere fact of his death, it is unquestionable that the plaintiff, in fact and in law, succeeded her parents and *acquired the ownership of the land* referred to in the said title, *by the mere fact of their death*. (Arts. 440, 657, 658, 659, and 661, Civil Code.)

*Even in the event that there should be a coheir or a coowner of the parcel of land in question, once the right of the plaintiff, and consequently her personality, has been proven the defendant has no right to dispute them, * * *.*" (Lubrico *vs.* Arbado, 12 Phil., 391, 398-397.)

"There is no legal precept or established rule which imposes the necessity of a previous legal declaration regarding their status as heirs to an intestate estate on those who, being of age and with legal capacity, consider themselves the legal heirs of a person, in order that they may maintain an action arising out of a right which belonged to their ancestor." (Hernandez *vs.* Padua, *syllabus*, 14 Phil., 194.)

See also, Inocencio *vs.* Gat-Pandan, 14 Phil., 491; Sy Joc Lieng *vs.* Sy Quia, 16 Phil., 137; Alliasas *vs.* Alcantara, 16 Phil., 489; Irland *vs.* Pitargue, 28 Phil., 383; Castillo *vs.* Castillo, 23 Phil., 364; Nable Jose *vs.* Uson, 27 Phil., 73; Beltran *vs.* Soriano, 32 Phil., 66; Bona *vs.* Briones, 38 Phil., 276; Uy Coque *vs.* Navas L. Sioca, 45 Phil., 430; Fule *vs.* Fule, 46 Phil., 317; Orozco *vs.* Garcia, 50 Phil., 149; Gibbs *vs.* Gov't of the P. I., 59 Phil., 293; Mendoza Vda. de Bonnevie *vs.* Cecilio Vda. de Pardo, 59 Phil., 486; Lorenzo *vs.* Posadas, 64 Phil., 353; Gov't. *vs.* Sarafica, 33 Off. Gaz., 334; de Vera *vs.* Galauran, 67 Phil., 213; and Cuevas *vs.* Abe-samis, 71 Phil., 147.

In view of the foregoing, the order appealed from is hereby reversed, and let the record of this case be, as it is hereby remanded to the court of origin for further pro-

ceedings not inconsistent with this decision, with costs against the defendants-appellees.

It is so ordered.

Parás, C. J., Pablo, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Labrador, and J. B. L. Reyes, JJ., concur.

Order appealed from, reversed.

[No. L-6338. August 11, 1954]

S. N. PICORNELL & Co., plaintiff and appellee, *vs.* JOSE M. CORDOVA, defendant and appellant

1. JUDGMENTS; WHEN JUDGMENT BECOMES FINAL; PERIOD OF LIMITATIONS BEGINS FROM DATE OF ENTRY OF FINAL JUDGMENT.—An appealed judgment of a Court of First Instance in an original prewar case does not become final until it is affirmed by the Court of Appeals, precisely because of the appeal interposed therein; hence the period of limitation does not begin to run until after the Court of Appeals denies the motion to reconsider and final judgment is entered (old Civil Code Art. 1971; new Civil Code Art. 1152).
2. ACTIONS; ACTION TO REVIVE JUDGMENT, WHEN BARRED BY PERIOD OF LIMITATIONS.—In this case, from the date the final judgment was entered until the present proceedings were commenced on January 16, 1950, less than ten years have elapsed, so that the action to revive the judgment has not yet become barred (sec. 43, Act 190; 31 Am. Jur. p. 846).
3. ID.; DEFENSES; MORATORIUM ACT, NO LONGER A DEFENSE.—Republic Act No. 342, known as the Moratorium Act, having been declared unconstitutional by this Court in *Rutter vs. Esteban* (49 Off. Gaz., No. 5, p. 1807), it may no longer be invoked as a defense.

APPEAL from a judgment of the Court of First Instance of Manila.

The facts are stated in the opinion of the court.

Fulgencio Vega for defendant and appellant.

Ross, Selph, Carrascoso & Janda and Delfin L. Gonzalez for plaintiff and appellee.

REYES, J. B. L., J.:

This is an appeal from the judgment rendered on November 15, 1950, by the Court of First Instance of Manila in its Civil Case No. 10115, reviving a prewar judgment (Civil Case No. 51265) against the defendant-appellant José M. Cordova and sentencing him to pay the plaintiff-appellee the sum of ₱12,060.63, plus interest thereon at the legal rate from May 27, 1941, until full payment; with the proviso that the judgment shall not be enforced until the expiration of the moratorium period fixed by Republic Act 342.

The material facts are as follows: In Civil Case No. 51265 of the Court of First Instance of Manila, the appellant José M. Cordova was sentenced on March 4, 1939,

to pay the firm of Hair & Picornell the amount of ₱12,715.41 plus interest at the legal rate from May 4, 1937 and costs (Exhibit B). Cordova appealed to the Court of Appeals, where the decision of the Court of First Instance was affirmed on December 27, 1940 (CA-G.R. No. 5471) (Exhibit C). A motion for reconsideration was denied on February 7, 1941, and the parties were notified thereof on February 11, 1941 (Exhibit D). Thereafter, the judgment became final and executory. Execution was issued; several properties of the defendant were levied upon and sold, and the proceeds applied in partial satisfaction of the judgment, but there remained an unpaid balance of ₱12,060.63 (Exhibits E, F, G).

Subsequently, the interest of Hair & Picornell in the judgment was assigned to appellee S. W. Picornell & Co. (Exhibit H). The latter, on January 16, 1950, commenced the present action (No. 10115) to revive the judgment in case No. 51265; but Cordova defended on two grounds: (1) that the action had prescribed; and (2) that the action against him was not maintainable in view of the provisions of section 2, of Republic Act No. 342, since he (Cordova) had filed a claim with the Philippine War Damage Commission, bearing No. 978113 (Exhibit I). Both defenses were disallowed by the Court of First Instance, which rendered judgment as described in the first paragraph of this decision. Cordova duly appealed to the Court of Appeals, but the latter certified the case to this Court, as involving only questions of law.

Clearly, the appeal is without merit. The judgment of the Court of First Instance in the original prewar case, No. 51265, did not become final until it was affirmed by the Court of Appeals, precisely because of the appeal interposed by appellant Cordova; hence the period of limitation did not begin to run until final judgment was entered, after the Court of Appeals had denied Cordova's motion to reconsider on February 7, 1941 (old Civil Code article 1971; new Civil Code article 1152). From the latter date until the present proceedings were commenced on January 16, 1950, less than ten years have elapsed, so that the action to revive the judgment has not yet become barred (section 43, Act 190; 31 Am. Jur. s. 846).

As to the defense based on the Moratorium Act, R. A. No. 342, our decision in *Rutter vs. Esteban* (1953), 49 Off. Gaz., (No. 5) p. 1807, declaring the continued operation of said Act to be unconstitutional, is conclusive, that it may no longer be invoked as a defense.

Wherefore, the decision appealed from is affirmed except as to the proviso suspending execution of the judgment until eight years after the settlement of appellant's war

damage claim. Said condition is hereby annulled and set aside, in accordance with our ruling in the Rutter case.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Judgment affirmed.

[No. L-6450. August 11, 1954]

GONZALO MAKABENTA, petitioner, *vs.* JUAN L. BOCAR, Judge of First Instance of Leyte, and FILOMENO R. NEGADO, respondents.

1. PLEADING AND PRACTICE; JUDGMENT BY DEFAULT; FAILURE OF DEFENDANT TO APPEAR, SOLE GROUND FOR DEFAULT IN INFERIOR COURTS; FILING OF ANSWER WITHIN THE REGLEMENTARY PERIOD EQUIVALENT TO APPEARANCE.—The sole ground for default in the inferior court is failure of the defendant to appear before it. Although the defendant has failed to appear during the trial of his case in the Justice of the Peace Court, yet if he has filed his answer to the complaint within the prescribed period, he is deemed to have put in his appearance and submitted to its jurisdiction. Hence, he was not, and should not have been declared, in default.
2. *ID.*; *ID.*; *ID.*; *ID.*; COURT MAY PROCEED WITH TRIAL IN THE ABSENCE OF DEFENDANT; JUDGMENT ON THE MERITS, NOT BY DEFAULT; JUDGMENT APPEALABLE.—While it was discretionary for the court to proceed with the trial of the case in the absence of defendant or his counsel, and render judgment on the basis of the evidence presented by the plaintiff, such judgment was not one by default, and defendant could, under the law, appeal to the Court of First Instance.
3. CERTIORARI IN THE NATURE OF MANDAMUS, NOT BARRED, ALTHOUGH ORDER COMPLAINED OF IS APPEALABLE.—A petition for certiorari to annul the order of dismissal of the appeal in such case is in the nature of a petition for mandamus to order the Court of First Instance to proceed with the hearing of the case, and it is not barred by the fact that the order complained of was appealable (*Quizan vs. Arellano*, G. R. No. L- 4461, December 28, 1951).

ORIGINAL ACTION in the Supreme Court. Certiorari.

The facts are stated in the opinion of the court.

Alberto T. Aguja for petitioner.

Mateo Canonoy for respondents.

REYES, J. B. L., *J.*:

On September 30, 1950, Filomeno R. Negado filed a complaint in the Justice of the Peace Court of Carigara, Leyte, against Gonzalo Makabenta for the recovery of a sum of money. Within the prescribed period, the defendant Gonzalo Makabenta filed his answer with counterclaim. After issues had been joined, the case was set for trial on September 18, 1951. At the trial, defendant failed to

appear; plaintiff moved that the former be declared in default, and accordingly, the Justice of the Peace Court declared him in default and ordered the plaintiff to present his evidence. Judgment was rendered for the plaintiff on November 24, 1951, copy of which defendant Makabenta received on December 8, 1951, and it was only then that he learned for the first time that he was declared in default and that judgment by default had been taken against him. Whereupon, defendant Gonzalo Makabenta appealed to the Court of First Instance of Leyte (Civil Case No. 1453), where both parties filed their respective pleading. When the case was ready for trial, the plaintiff-appellee Filomeno R. Negado filed on July 20, 1952 a motion for the dismissal of the appeal on the ground that the appellant had been declared in default in the Justice of the Peace Court and had, therefore, no standing in court. The Court of First Instance considered the motion well-taken and dismissed the appeal holding that Makabenta had no right to appeal unless the order declaring him in default is first set aside. A motion for the reconsideration of the order of dismissal was denied, and defendant-appellant Gonzalo Makabenta came to this court with a petition for certiorari, asking that after due hearing, the order of the respondent Judge dismissing his appeal be annulled, and the case set for trial on the merits.

The petition must be granted. The order of default taken against the petitioner Gonzalo Makabenta in the Justice of the Peace Court of Carigara, Leyte is clearly illegal and without effect; for although petitioner failed to appear during the trial of the case therein, he filed his answer to the complaint, and as we have consistently held, the sole ground for default in the inferior courts is failure to appear (*Veluz vs. Justice of the Peace of Sariaya*, 42 Phil., 557; *Quizan vs. Arellano*, G. R. L- 4461, December 28, 1951; *Carballo vs. Hon. Demetrio B. Encarnacion, et al.*, G. R. L-5675, April 27, 1953). By filing his answer in the Justice of the Peace Court, petitioner put in his appearance and submitted to its jurisdiction; hence, he was not, and should not have been declared, in default. While it was discretionary for the court to proceed with the trial of the case in the absence of petitioner or his counsel, and render judgment on the basis of the evidence presented by the plaintiff, such judgment was not by default, and petitioner could, under the law, appeal, as he in fact did appeal, to the Court of First Instance (*Carballo vs. Hon. Demetrio B. Encarnacion, supra*). Consequently, in dismissing petitioner's appeal, on the ground that he had no standing in court unless the order of default is first set aside, the respondent court committed a grave abuse of discretion amounting to lack of jurisdiction.

This petition for certiorari to annul the order of dismissal of the appeal is in the nature of a petition for mandamus to order the Court of First Instance to proceed with the hearing of the case, and it is not barred by the fact that the order complained of was appealable (*Quizan vs. Arellano*, G. R. L-4461, December 28, 1951).

Wherefore, the petition for certiorari is granted, the order of the court *a quo* dismissing petitioner's appeal is annulled, and the respondent judge is hereby directed to reinstate said appeal and proceed with the trial of the case on the merits. Costs to be taxed against the respondent Filomeno R. Negado.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Petition granted.

[No. L-6354. July 26, 1954]

EPIFANIO FARRALES, petitioner, *vs.* ANTONIO FUENTECILLA, Justice of the Peace of San Narciso, Zambalez, QUIRINO DUMLAO and JESUS AMON, *ex officio* Provincial Sheriff of Zambales, respondents.

INJUNCTION; DISSOLUTION OF INJUNCTION "EX PARTE," NOT IN EXCESS OF COURT'S JURISDICTION.—The law governing the power of the justice of the peace court to dissolve a preliminary mandatory injunction that had been issued by it is section 6 of Rule 60. This rule grants the courts authority to dissolve a preliminary injunction if in its opinion its continuance may cause great damage to the defendant provided the latter posts a bond in an amount to be fixed by the court, but is silent as to the procedure to be followed in granting the relief. It does not say whether it may be granted *ex parte*, or only after notice and hearing. Apparently, the rule gives to the court ample discretion to act on the matter provided that in doing so the substance of the rule is observed. * * * Thus, it was held that " * * * At any rate, as already stated, the respondent judge was not even required to hear the parties, if the record convinced him that the writ of preliminary injunction should be dissolved. (*Ong Su Han vs. Gutierrez David*, 43 Off. Gaz., 95.) Specifically, it has been held that, in *dissolving an injunction* already issued the court cannot be considered as having acted *without* or with excess of jurisdiction, even if the dissolution has been made without previous notice to the adverse party, and without a hearing." (*Caluya vs. Ramos*, 45 Off. Gaz., No. 5, 2075; *Clarke vs. Phil. Ready Mix Concrete Co., Inc.*, L-4036, April 13, 1951.)

ORIGINAL ACTION in the Supreme Court. Certiorari with preliminary injunction.

The facts are stated in the opinion of the court.

Cesar B. Villanueva for the petitioner.

Mañgaser & Abad for the respondents.

BAUTISTA ANGELO, J.:

Epifanio Farrales has come to this court by way of certiorari seeking to set aside the order issued on September 29, 1952 by respondent Justice of the Peace dissolving the preliminary mandatory injunction previously issued by him on the ground that said order is illegal it having been issued without notice and hearing.

On February 16, 1952, Epifanio Farrales, petitioner herein, filed an action for forcible entry before the Justice of the Peace Court of San Narciso, Zambalez, relative to certain lands situated in barrio Paete of said municipality against Quirino Dumlao and several other persons.

On February 26, 1952, petitioner filed a motion for the issuance of a writ of preliminary mandatory injunction under article 539 of the new Civil Code, which was granted after due notice and hearing, and as a result, the sheriff placed petitioner in possession of the lands in litigation.

In the meantime, the case was heard on May 3, 6, and 8, 1952, but thereafter further proceedings were discontinued apparently for the reason that respondent Justice of the Peace seldom came to his office or ceased to act in San Narciso, Zambalez. Then, suddenly, about five months after the last hearing on the main case, respondent Justice of the Peace issued an order on September 29, 1952 dissolving the preliminary injunction issued by him on March 25, 1952.

Considering that this order is illegal because it was issued *ex parte* or without giving petitioner an opportunity to be heard, he filed the present petition imputing grave abuse of discretion to respondent Justice of the Peace.

In his answer, respondent Justice of the Peace denies the imputation that he committed certain irregularities in the performance of his official duties and alleges that when he issued the order dissolving the preliminary injunction he merely acted in accordance with the rules of court considering the great damage that would be caused to the defendants and the fact that petitioner can be fully compensated for the damage he may suffer by the counterbond posted by the defendants.

The law governing the power of the court to dissolve a preliminary injunction is section 6, Rule 60, of the Rules of Court. This rule grants the court authority to dissolve a preliminary injunction if in its opinion its continuance may cause great damage to the defendant provided the latter posts a bond in an amount to be fixed by the court, but is silent as to the procedure to be followed in granting the relief. It does not say whether it may be granted *ex parte*, or only after notice and hearing. Apparently, the rule gives to the court ample dis-

cretion to act on the matter provided that in doing so the substance of the rule is observed. That such is the case is apparent in a number of cases decided by this court. Thus, it was held that “* * * At any rate, as already stated, the respondent judge was not even required to hear the parties, if the record convinced him that the writ of preliminary injunction should be dissolved. (Ong Su Han vs. Gutierrez David, 43 Off. Gaz., 95). Specifically, it has been held that, *in dissolving an injunction* already issued the court cannot be considered as having acted *without jurisdiction or with excess of jurisdiction*, even if the dissolution has been made without previous notice to the adverse party, and without a hearing.” (Italics ours) (Caluya vs. Ramos, 45 Off. Gaz., No. 5, 2075.) And in the case of Clark vs. Phil. Ready Mix Concrete Co., Inc., et al., G. R. No. L-4036, promulgated April 13, 1951, this court made a summary of the ruling on this matter:

“The issues in the present case may be briefly stated as follows:

“(1) May a writ of preliminary injunction granted by a trial court after a hearing, be dissolved upon an *ex parte* application by defendant?

* * * * *

“The question involved in the first part has already been passed upon by this court in the case of Caluya vs. Ramos, G. R. No. L-1307, 45 Off. Gaz., No. 5, p. 2075, where we said:

* * * * *

“* * * Specifically, it has been held that, *in dissolving an injunction* already issued the court cannot be considered as having acted *without jurisdiction or with excess of jurisdiction*, even if the dissolution has been made without previous notice to the adverse party, and without a hearing.” (Italics ours.)”

“Again, in the case of Cine Ligaya vs. the Court of First Instance of Laguna, et al., 66 Phil., 659, this court held:

“* * * Nevertheless, even if a previous notice were required and even if there had been no hearing on the petition to lift or dissolve the injunction granted, it cannot be said for that reason that the court dissolving the injunction thus issued, acted *without or in excess of jurisdiction*. * * * The failure to send a notice or to hold a hearing as required by section 169¹ aforecited of Act No. 190 is not in any way *jurisdictional* so as to invalidate the proceedings of the court on the ground of lack or excess of jurisdiction.”

* * * * *

“Also in the case of Jaranillo vs. Jacinto et al., 43 Phil., 588, this court held that ‘failure to give such notice is merely an irregularity in the proceedings which do not go to the jurisdiction of the court and cannot be corrected by certiorari.’

“And, in the case of So Chu et al. vs. Nepomuceno, Judge of the Court of First Instance of Manila, 29 Phil., 208, it was held that ‘where court has jurisdiction over the person and subject matter of the action, a failure to give notice of subsequent steps in the action or proceeding is not jurisdictional and does not render an order without notice void.’

It is thus seen that notice and hearing are not necessary in order that the court may act on a motion for dissolution of an injunction previously issued. The court can act *ex parte* and if it does so it cannot be deemed as having acted without or in excess of its jurisdiction. Such is the predicament of respondent Justice of the Peace. He acted substantially in accordance with the rules of court. Nor can it be said that he acted with abuse of discretion because, according to him, he dissolved the injunction after considering the great damage that would be caused to defendants and the fact that petitioner can be fully compensated for the damage he may suffer by the counter-bond posted by defendants. This appears to be substantiated by the record.

With regard to the claim of petitioner that respondent Justice of the Peace has committed certain irregularities in the performance of his official duties, aside from the fact that such imputation has been denied, we are of the opinion that this is not the place where it should be aired. The matter may be brought to the Judge of the Court of First Instance who has supervision over the Justice of the Peace or to the Secretary of Justice. (Sections 96-97, Judiciary Act of 1948.)

The petition is dismissed, without pronouncement as to costs.

Parás, C. J., Bengzon, Padilla, Montemayor, A. Reyes, Jugo, and J. B. L. Reyes, JJ., concur.

CONCEPCION, J., concurring in the result:

Whenever a judicial power is granted, the assumption should be that previous notice and hearing are due to the party who may be adversely affected by its exercise. Otherwise, the action of the court, if taken *ex-parte*, may constitute a denial of the due process guaranteed in the Bill of Rights.

"No rule is better established, under the due-process-of-law provision of the organic law of the land, than the one which requires notice and an opportunity to be heard before any citizen of the state can be deprived of his rights. That is the rule, whether the action is *in personam* or *in rem*, with the exception that in an action *in rem* substituted service may be had." (*Pennoyer vs. Noff*, 95 U. S., 714; *Kilbourn vs. Thompson*, 103 U.S., 168.) (*Lopez vs. Director of Lands*, 47 Phil., 23, 32 [Constitution of the Philippines by Tañada and Fernando, Rev. ed., p. 43.]

Said notice and hearing may be dispensed with, however, when a valid act of Congress expressly or clearly so provides, or when otherwise sanctioned by a practice long established under the Common Law, such as that which obtains in connection with the issuance of writ of

attachment or preliminary injunction, or of a warrant of arrest, or the distraint of property in payment of taxes, or the suspension of a public officer pending investigation of administrative charges preferred against him (*Cornejo vs. Gabriel*, 41 Phil., 188, 193-194). It should be noted that, in all of these cases, the *ex parte* action taken seeks, either to preserve the *status quo*, or to prevent that the final judgment, later to be rendered, may be defeated by acts performed, in the meantime, by the party concerned. Thus, the purpose of the *ex parte* warrant of arrest is, apart from placing the accused under the jurisdiction of the court, to prevent him from evading its authority; that of a writ of attachment, to avoid that the judgment, to be rendered in due time, be frustrated by the concealment or fraudulent disposal of defendant's properties; that of distraint of personal property to insure the collection of taxes, by depriving the taxpayer of the opportunity to place his assets beyond the reach of the government; that of suspension of a public officer, pending investigation of the charges against him, to preclude the use of the power and influence of his office to intimidate or eliminate witnesses and other evidence against him some of which may be in the files or records of his own office, that obstructing said investigation or nullifying its purpose and effect. As a consequence, when the suspension is not preventive, but penal or disciplinary in nature, it cannot be imposed or decreed without previous notice and hearing.

Pursuant to section 3 of Rule 60 of the Rules of Court, a writ of preliminary injunction may be issued when, among other things, "the commission or continuance of the act complained of during the litigation would probably work injustice to the plaintiff," or when "the defendant is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual." The dissolution of such writ of preliminary injunction, would, therefore, give the defendant a free hand to *change the status quo* and to commit or continue the commission of Acts which would probably "work injustice to the plaintiff" or "render ineffectual" the judgment he may secure in his favor. Justice and equity demands, therefore, that the plaintiff be given, prior thereto, an opportunity, at least, to show that such would be the result of the lifting of the writ.

The necessity of a previous notice and hearing becomes more apparent when we consider that the resulting injury to the plaintiff may not be susceptible of pecuniary estima-

tion or otherwise compensable in terms of money. Besides, even if it were, the bond to be filed by the defendant before the dissolution of the writ might not be sufficient to fully indemnify the plaintiff. Although the court may order or require—generally, upon motion of the plaintiff, *after* the issuance of the order of dissolution of the writ—that another bond, for a bigger amount and subject to such additional terms and conditions as may be deemed proper to protect his interests, be filed, the accomplishment of said purpose may then be impossible for, by that time, an injury beyond repair may have already been inflicted, and/or the defendant may no longer be willing or able to comply with said order or to meet said requirement. Accordingly, it is doubtful whether Congress or the Rules of Court could dispense with notice and hearing before the issuance of said order of dissolution, consistently with the due process clause of the Constitution.

At any rate, there is no provision of law or of the Rules of Court authorizing the *ex parte* dissolution of a writ of preliminary injunction. What is more, when the silence of the law on this point is contrasted with the specific grant of power to issue said writ *ex parte* (Rule 60, section 5, Rules of Court), the conclusion seems inevitable that such power was not meant to be given in connection with the dissolution of the writ, for *expressio unius est exclusio alterius*. Indeed, in order that a writ of preliminary injunction could be dissolved, it must appear that “the plaintiff can be fully compensated for such damage as he may suffer.” (Section 6, Rule 60, Rules of Court.) This provision indicates clearly, to my mind, that plaintiff must first be given an opportunity to demonstrate that said condition is not present in his case. Accordingly, I find it difficult to subscribe, without qualification, to the view that a writ of preliminary injunction may freely be dissolved *ex parte*.

In the case at bar, however, the order complained of dissolved, not a writ of preliminary injunction, but a preliminary mandatory injunction, which, instead of preserving things in the condition in which they were at the time of the commencement of the litigation, sought to *change* the same. Conversely, the order dissolving said preliminary mandatory injunction had the effect of restoring the parties to their *status quo* at the time of the institution of the case. Hence, the order dissolving the preliminary mandatory injunction played the role of a writ of preliminary injunction, in that it tended to maintain said *status quo*. For this reason, I concur in the result.

Certiorari denied.

[No. L-7013. Julio 26, 1954]

ELISEO FERNANDO, recurrente, contra HONORABLE ENRIQUE MAGLANOC, ETC. Y OTRO, recurridos y apelantes**PRUEBAS, TESTIGOS; DERECHO CONTRA PREGUNTAS INCRIMINATORIAS.—**

Un *Huk* que se había rendido a las autoridades y que estaba detenido preventivamente en la cárcel provincial, recibió una citación *subpoena* para testificar en una causa criminal como testigo de los acusados. En su testimonio declaró que él había visto al occiso antes y después de haber sido muerto; que sabía quién le había matado y también sabía que el "Commander" había dado la orden a los ejecutores para matar al occiso; y que en la noche del suceso era miembro de la organización *Hukbalahap*. A la pregunta del fiscal *Why were you there?* el testigo rehusó contestar. *Se declara:* Que ateniéndose solamente a estos datos, es inevitable llegar a la conclusión de que la contestación sería inculpatória. Pero esto no es óbice para que el juzgado desatienda la declaración de este testigo de los acusados si no merece crédito (58 Am. Jur. 69 citing 147 ALR 270)

UNA ACCIÓN ORIGINAL presentada en el Tribunal Supremo. Certiorari.

Los hechos aparecen relatados en la decisión del Tribunal.

Sr. Constancio Padilla por el recurrente.

El Procurador General Juan R. Liwag y *el Procurador Pacífico P. de Castro*, por el juez recurrido.

PABLO, M.:

El recurrente es un *Huk* que se había rendido a las autoridades y que estaba detenido preventivamente en la cárcel provincial de Nueva Ecija cuando recibió una citación *subpoena* para testificar en la causa de El Pueblo de Filipinas contra López Rayos y otro, No. 2672 del Juzgado de Primera Instancia de dicha provincia, por robo con homicidio. En su testimonio declaró que él había visto a Manuel Jacinto antes y después de haber sido muerto en la noche del 26 de octubre de 1951; que sabía quién le había matado y también sabía que el "Commander" Joe había dado la orden a los ejecutores para matar a Manuel Jacinto; y que en la noche del suceso era miembro de la organización *Hukbalahap*. A la pregunta del fiscal *Why were you there?* el testigo rehusó contestar alegando que la contestación sería inculpatória, y pidió que no se le obligase a contestar, pero el juez recurrido denegó la petición.

El abogado del testigo, hoy recurrente, pidió al juzgado que reconsiderase su resolución. Dicha moción también fué denegada. El abogado del recurrente pidió que se suspendiese la vista de la causa para que él pudiera tener la oportunidad de plantear ante este Tribunal su contención de que el testigo no podía ser obligado a contestar a la pregunta dirigida a él. Presentó en efecto la solicitud alegando que, de acuerdo con la Constitución, el testigo no podía ser

obligado a contestar a una pregunta que le podía inculpar; que si contestaba a la pregunta, podía costarle una larga prisión, o la pena capital y que, si no contestaba, podía ser castigado por desacato, por lo que pide que se revoque la orden del juez recurrido ordenándole a que conteste. El ministerio fiscal sostiene que el juez no abusó de su discreción; que aunque algunos precedentes americanos conceden a un testigo el derecho de determinar si debe contestar o no, "the modern rule is that the trial court is first to determine whether in law, under all the circumstances, the witness should be accorded the privilege, and such determination is a matter within the discretion of the court, subject, however, to the rule that where the court can discover from the circumstances that the giving of evidence on a certain subject may tend to incriminate the witness, it has the right and duty to sustain the privilege and that the matter is not to be determined by the witness alone, although the witness must judge of the effect of his answer, and, if it appears to the court that an answer might tend to criminate the witness, it is then for the witness to decide for himself whether a truthful answer would have that effect." (Sec. 909, 70 C. J., pp. 751-753).

No se trata de si el juez recurrido abusó o no de su discreción; la cuestión planteada es si, por los hechos alegados, el recurrente está obligado—su pena de desacato—a contestar a la pregunta del fiscal.

Solamente tenemos a la vista la solicitud jurada, la contestación del ministerio fiscal admitiendo los hechos relacionados en la orden del juez recurrido de 24 de agosto de 1953 y una copia de dicha orden. Ateniéndonos solamente a estos datos, es inevitable llegar a la conclusión de que la contención del recurrente está bien fundada: de que la contestación sería inculpatória. Si él había visto a Manuel Jacinto antes y después de haber sido muerto en la noche del 26 de octubre de 1951 y sabía quién le había matado y quién había ordenado su muerte, será porque el recurrente era uno de los que habían recibido la orden de matar. En tal caso, sería tan responsable de la muerte de Manuel Jacinto como los demás. Si por casualidad él estaba presente antes y después del homicidio y no tenía nada que ver con la muerte de Manuel Jacinto, hubiera sido fácil para él decir que allí estaba de paso o por casualidad. Pero si se había enterado también por casualidad de la orden del Commander para matar, sería mucha casualidad. Como se había enterado de muchas cosas que habían tenido lugar en diferentes tiempos y teniendo en cuenta que el recurrente era Huk cuando se privó de la vida a Manuel Jacinto, no es infundado concluir que él había tenido intervención en el crimen y, por eso, indudablemente no quiso contestar a la pregunta para que no se descubriese su participación.

El mismo juez que ordenó al testigo contestar la pregunta y que denegó la moción de reconsideración, no tuvo el menor reparo en suspender la vista de la causa para dar a dicho testigo oportunidad de recurrir ante este Tribunal, indicio de que no estaba seguro de la legalidad de su resolución. En caso de duda—habrá pensado el juez—se resuelve la cuestión a favor del testigo.

"The privilege of a witness to decline to give evidence insinuating himself is not confined to the right to refuse to answer a direct question as to the commission of a sin, but includes the right to refuse to testify to a fact which would be a necessary link in a chain of evidence to prove the commission of a crime by the virtue or could be its source from which evidence of his commission of a crime might be obtained." (70 c.g. 726 citing numerous cases).

"Whether an answer to a question would tend to incriminate witness depends on whether, if he gave a true and responsive answer to the question asked, that answer would form part of a chain of evidence which might tend to convict him." (In re Doyle, 42 F [2d] 686 [rev on other grounds 47 F[2d] 1086] 458 Am. Jur., 54).

"Where his answer would have a tendency to incriminate the witness, he is protected in his claim of privilege irrespective of his motive." (U. S. vs. Herron, 28 F[2d] 122 cited in 70 C. J., 729).

"Sometimes it may be difficult to discern the dividing line, but in all such cases the doubt should be solved in favor of the witness. Certainly, where the witness, on oath declares his belief that the answer to the question would criminate or tend to criminate him, the court cannot compel him to answer, unless it is perfectly clear, from a careful consideration of all the circumstances of the case, that the witness is mistaken, or is acting in bad faith, and that the answer cannot possibly have any such tendency. For the purpose of this discussion a question that criminales, or tends to criminate, a witness may be defined as one the answer to which will show, or tend to show, him guilty of a crime for which he is yet liable to be punished." (58 Am. Jur., 70 71).

"A waiver of the privilege against self-incrimination must be made understandingly and willingly, and, according to some authorities, after being fully warned by the court. There can be no waiver by a defendant in a criminal prosecution if he does not know his rights. If the trial judge is satisfied that a witness intending to insist upon his privilege gave incriminating testimony ignorantly in misapprehension of his rights, he may advise the witness that he need not answer further, and strike out the answers already given." (58 Am. Jur., 82).

Pudiera suceder que el recurrente solamente quería salvar a los acusados, y porque no podía explicar la razón de su presencia, se salió con la excusa de que su contestación sería inculpatória. Solamente puede comprobarse esto con el examen minucioso de todas las pruebas relacionadas con el asunto. Si el Juzgado, después de considerar todas las pruebas, hallare que esa fué la intención del recurrente, entonces se puede no tener en cuenta su declaración.

"In some cases it is ruled that where a witness has disclosed part of facts and on cross-examination his claim of privilege as to disclosure of the rest is allowed, it is proper

to strike his entire testimony." (58 Am. Jur., 69, citing 147 ALR 270.)

Se concede el remedio pedido; pero esto no es óbice para que el juzgado desatienda la declaración del recurrente si no merece crédito como testigo de los acusados.

Parás, Pres., Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Labrador, y J. B. L. Reyes, MM., están conformes.

Concepcion, M., se reserva su voto.

Se concede el remedio pedido.

[No. L-7598. July 26, 1954]

COMMISSIONER OF CUSTOMS, petitioner, *vs.* HONORABLE JUDGE DEMETRIO ENCARNACION OF THE COURT OF FIRST INSTANCE OF RIZAL and RODOLFO SADIA, respondents.

1. DECISIONS; APPEALS; FAILURE TO APPEAL FROM DECISION OF COLLECTOR OF CUSTOMS DEPRIVES PARTY RIGHT TO DISPUTE ITS VALIDITY AFTER IT HAD BECOME FINAL.—A crew member of a passenger plane who brought into the country certain dutiable articles but failed to appeal from a decision of the Collector of Customs decreeing the forfeiture of said articles in favor of the Government, can no longer dispute the validity of said decision after it had become final.
2. *Id.*; *Id.*; *Id.*; DUTIABLE GOODS PASSED TO THE CONTROL OF GOVERNMENT; COURT CAN NOT ORDER THEIR RETURN TO OWNER.—After the order of the Collector of Customs decreeing the forfeiture of those dutiable goods had become final, the goods ceased to belong to the crew member. They had passed to the control of the government and the court can not decree that said articles be delivered to him.
3. CRIMINAL LAW; ACQUITTAL; COURT DETERMINES TO WHOM INSTRUMENTS OR TOOLS USED IN THE COMMISSION OF CRIME SHOULD BE ADJUDICATED; NECESSITY OF SUBMITTING THE INSTRUMENTS OR TOOLS IN EVIDENCE.—The court has the power to determine to whom the instruments or tools used in the commission of a crime should be adjudicated in case of acquittal. But in order that the court may exercise this jurisdiction it is necessary that such instruments or tools be *submitted in evidence* or be placed at the disposal of the court in such manner that it can be said that they are within its jurisdiction. Otherwise, the court is bereft of power to pass upon the disposition of said instruments or tools.

ORIGINAL ACTION in the Supreme Court. Prohibition and certiorari with preliminary injunction.

The facts are stated in the opinion of the court.

Solicitor General Querube C. Makalintal and *Solicitor Felix V. Makasiar* for petitioner.

Bienvenido T. Fama for respondent Rodolfo Sadia.

BAUTISTA ANGELO, J.:

This is a petition for prohibition and certiorari with preliminary injunction.

Petitioner seeks to set aside a portion of the decision of respondent Judge which orders the return of certain dutiable goods to an accused in a criminal case despite the fact that they had been legally forfeited to the Republic of the Philippines.

On September 7, 1951, one Rodolfo Sadia, a crew member of the Philippine Air Lines, arrived from Madrid on a PAL plane bringing with him certain dutiable articles. These articles were not declared in the baggage declaration and were brought without the corresponding import license. Accordingly, they were seized by the customs authorities.

After due hearing, of which Sadia and other necessary parties were duly notified, the Collector of Customs, in a decision rendered on April 14, 1952, decreed that said articles be forfeited to the Government as required by law. Said decision was approved on May 3, 1952 by the Commissioner of Customs, and as Sadia did not appeal therefrom, nor ask for a reconsideration thereof, the order of forfeiture became final.

On October 17, 1952, Rodolfo Sadia was charged before the Court of First Instance of Rizal with a violation of section 2703 of the Revised Administrative Code for his failure to declare the dutiable articles above referred to in his baggage declaration (Criminal Case No. 3794), and, after trial, the court, then presided over by respondent Judge, in a decision rendered on June 29, 1953, acquitted the accused on the ground of insufficiency of evidence, ordering at the same time the Bureau of Customs to return to him said articles upon prior payment of the customs duties due thereon.

On July 20, 1953, the Government filed a motion for reconsideration of that portion of the decision which orders the Bureau of Customs to release the dutiable articles to the accused on the ground that the order is illegal because it modifies a final order of forfeiture of the Collector of Customs who has exclusive and original jurisdiction to act on the matter under the law, and this motion having been denied, the Commissioner of Customs instituted the present proceedings.

In his answer, respondent Rodolfo Sadia tries to justify the disposition made of the articles by respondent Judge contending that the Commissioner of Customs had no jurisdiction to order their seizure and that all the proceedings conducted by him on the matter are null and void.

This claim cannot now be invoked by respondent, nor can he dispute the validity of the seizure decree, it appearing that he failed to appeal from the decision of the Collector of Customs as approved by the Commissioner of Customs, as required by law. It appears that, following the seizure of the dutiable articles, a hearing was held

after giving due notice to respondent Sadia and other necessary parties, and after the hearing the Collector of Customs, in a decision rendered on April 14, 1952, decreed the forfeiture of the articles in favor of the Government. From this decision Sadia did not appeal. He cannot therefore dispute now the validity of said decision which had long become final. (Section 1383, Revised Administrative Code.)

The question now to be determined is whether the respondent Judge has acted properly in ordering the return of the dutiable articles to Rodolfo Sadia in view of his acquittal in the criminal case on the ground of insufficiency of evidence to prove criminal intent to defraud the Government.

Under the law, "Every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instruments or tools with which it was committed. Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be the property of a third person not liable for the offense * * *." (Article 45, Revised Penal Code). As a corollary, it may be said that the court has the power to determine to whom the said instruments or tools should be adjudicated in case of acquittal. And so it has been held that the court having jurisdiction of the offense has also the jurisdiction to determine the disposition of such proceeds, instruments or tools, and it is its duty to dispose of same upon the application of any person interested (*U. S. vs. Bruhez*, 28 Phil., 305). But in order that the court may exercise this jurisdiction it is necessary that such instruments or tools be *submitted in evidence* or be placed at the disposal of the court in such manner that it can be said that they are within its jurisdiction. Otherwise, the court is bereft of power to pass upon the disposition of said instruments or tools. (*U. S. vs. Filart and Singson*, 30 Phil., 80.)

Several reasons may be advanced why the respondent Judge erred in ordering the release of the dutiable articles in question to Rodolfo Sadia even if he is acquitted on the ground of insufficiency of evidence. One of them is the fact that said articles have ceased to belong to Sadia. It is undisputed that they had been forfeited to the Government by the Commissioner of Customs by virtue of the power conferred upon him by law after Sadia and other necessary parties had been duly heard. (Sections 1379-1380, Revised Administrative Code.) This order became final in view of the failure of Sadia to appeal as required by law. He cannot therefore now dispute that said articles had passed to the control of the Government. Much less can the court decree that said articles be delivered to him.

Another reason is the fact that the controversial articles had never been submitted in evidence nor placed at the disposal of the court in the criminal case instituted against Sadia. This fact appears in the very decision of the court and is a matter that has contributed to creating the doubt which resulted in the acquittal of the accused. Said articles, not having been submitted in evidence, were not within the jurisdiction of the court and as such could not have been subject to its disposition. It is therefore evident that, in ordering their return to Sadia, the court acted in excess of its jurisdiction, or at least with grave abuse of discretion.

Petition is granted, with costs against respondent Rodolfo Sadia. The objectionable portion is ordered deleted from the decision rendered in Criminal Case No. 3794.

Parás, C. J., Pablo Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Labrador, Concepcion, and J. B. L., Reyes, JJ., concur.

Petition granted.

[Nos. L-6687 and L-6688. Julio 29, 1954]

EL PUEBLO DE FILIPINAS, querellante y apelante, *contra* ANG CHO KIO, *alias* KI WA, *alias* LUCIO LEE, *alias* PHILIP ANG, *alias* Mr. ANG, *alias* GO ONG, y *alias* Mr. ONG, acusado y apelado.

1. DERECHO PENAL; ASESINATO; PENAS; CIRCUNSTANCIA AGRAVANTE DE PREMEDITACIÓN COMPENSADA CON LA ATENUANTE DE DECLARACIÓN DE CULPABILIDAD.—Cuando la circunstancia agravante de premeditación que concurrió en la comisión del delito está compensada con la atenuante de declaración de culpabilidad, la pena que debe imponerse al acusado es la dispuesta por el artículo 248 del Código Penal Revisado en su grado medio, o sea, la reclusión perpetua.
2. ID.; DELITOS COMPLEJOS; CUANDO UN DELITO NO ERA INDISPENSABLE EN LA COMISIÓN DEL OTRO, SE COMETE DOS DELITOS DISTINTOS.—El acusado obligó al piloto a dirigir el aeroplano de Laoag a Amoy en vez de llevarlo a Aparri y; al no cumplir tal requerimiento ilegal, el acusado le disparó varios tiros de revólver, matándole. *Se declara:* Que el acusado podía haber privado de la vida al aviador sin necesidad de obligarle a cambiar la dirección del aeroplano; no era indispensable la coacción para cometer el asesinato. Tampoco era indispensable el asesinato para cometer la coacción. Por haber asesinado al piloto, el acusado no consiguió su deseo de llegar a Amoy. Cometió dos actos que constituyen los delitos de coacción frustrada y asesinato.
3. ID.; APELACIÓN; QUIÉN PUEDE APELAR?; EL FISCAL NO PUEDE APELAR PARA QUE SE IMPONGA AL ACUSADO UNA PENA MAYOR; SE PONE AL ACUSADO EN DOBLE "JEOPARDY".—Si el acusado fué condenado por una pena menor que la señalada por la ley, el ministerio fiscal no puede apelar para corregir el error de ley, si dicha apelación pone en peligro al acusado

de recibir otra condena mayor. En ese caso, se pone al acusado en doble *jeopardy*.

APELACIÓN contra la sentencia del Juzgado de Primera Instancia de Manila. Concepcion, J.

Los hechos aparecen relacionados en la decisión del Tribunal.

Francisco Reyes, F. Lardizabal y S. Pañgonil en representación del acusado y apelado.

El procurador General Juan R. Liwag y el Procurador Jose G. Bautista en representación del Gobierno.

PABLO, M.:

La querella en la primera causa es del tenor siguiente:

"That on or about the 30th day of December, 1952, in Mountain Province, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then a passenger of Philippine Air Line plane PI-C-38 enroute from Laoag to Aparri and while said plane was flying over Mountain Province, did then and there willfully, unlawfully, and feloniously, and armed with .45 and .38 caliber pistols, with treachery and known premeditation shot Eduardo Diago, the purser of the aforesaid plane, thus inflicting gunshot wound on his (Eduardo Diago) body and as a result thereof said Eduardo Diago died instantly.

"Contrary to law.

"Baguio City, March 9, 1953 (p. 1, rec. Criminal Case No. 419)"

La querella en la segunda causa es la siguiente:

"That on or about the 30th day of December, 1952, in Mountain Province, Philipines and within the jurisdiction of this Honorable Court, the above-named accused, then a passenger of Philippine Air Line Plane PI-C-38 enroute from Laog to Aparri, while the said plane was flying over Mountain Province, did then and there willfully, unlawfully and feloniously and without authority of law, compel Pedro Perlas, pilot of the aforesaid plane, against the latter's will and consent, to change the route of the plane and take him (Accused) to Amoy, and when Pedro Perlas failed to comply immediately with said order, said accused who was then armed with .45 and .38 caliber pistols, with treachery and known premeditation, did then and there willfully, unlawfully and feloniously, shot said Pedro Perlas, thus inflicting gunshot wounds on the different parts of his (Pedro Perlas) body and as a result thereof said Pedro Perlas died instantly.

"All contrary to law.

"Baguio City, March 9, 1953 (p. 1, rec.; Criminal Case No. 420)."

Informado el acusado de las dos querellas con la asistencia de sus abogados, se declaró culpable. El Juzgado le condenó en la primera causa a 12 años de prisión mayor como mínima a 20 años de reclusión temporal como máxima, con indemnización a los herederos de Eduardo Diago en la suma de ₱6,000 y costas. En la segunda causa el Juzgado le condenó a reclusión perpetua, con indemnización a los herederos de Pedro Perlas en la suma de ₱6,000 y costas. Las mociones de reconsideración presentadas

en dichas causas, alegando que el Juzgado inferior erró al no imponer en la primera causa la pena de reclusión perpetua en la segunda la de muerte, han sido denegadas por el juzgado inferior, por eso el fiscal provincial presentó apelación.

El Procurador General sostiene en su alegato que el Juzgado inferior cometió error, en la primera causa, al no declarar compensada la circunstancia agravante de premeditación con la atenuante de declaración espontánea de culpabilidad y al no imponer al acusado la pena de reclusión perpetua y, en la segunda causa, al no declarar que el acusado cometió el delito complejo de coacción grave con asesinato y al no imponerle la pena capital.

Está bien fundada la contención del Ministerio Fiscal en la primera causa. Como está compensada la circunstancia agravante de premeditación con la atenuante de declaración de culpabilidad, debe imponerse al acusado la pena dispuesta por el artículo 248 del Código Penal Revisado en su grado medio, o sea reclusión perpetua.

En cuanto a la segunda causa, el acusado obligó al piloto Pedro Perlas a dirigir el aeroplano de Laoag a Amoy en vez de llevarlo a Aparri y, por no cumplir tal requerimiento ilegal, el acusado le disparó varios tiros de revólver. El delito cometido—contiene el Procurador General—es el delito complejo de coacción grave con asesinato, y la pena que debe imponerse, de acuerdo con el artículo 48 del Código Penal Revisado, es la correspondiente al delito más grave de asesinato en su grado máximo, o sea, la pena de muerte. Carece de base esta pretensión.

Dicho artículo dispone que "En el caso de que un solo hecho constituya dos o más delitos o cuando uno de ellos sea medio necesario para cometer el otro, se impondrá la pena correspondiente al delito más grave, aplicándola en su grado máximo."

El acusado obligó al aviador Pedro Perlas a cambiar la dirección del aeroplano, y como no cumpliera su orden lo mató; el acusado ejecutó dos hechos distintos, y no uno sólo; por tanto, no pueden dichos dos actos sucesivos constituir el delito complejo de coacción con asesinato. Si el aviador hubiera seguido la orden del acusado, éste no habría tenido necesidad de matarlo; el piloto fué puesto en la dura alternativa de cumplir la orden, o morir. El aviador no quiso ser desleal a su obligación, y fué muerto.

El acusado podía haber privado de la vida a Pedro Perlas sin necesidad de obligarle a cambiar la dirección del aeroplano; no era indispensable la coacción para cometer el asesinato. Tampoco era indispensable el asesinato para cometer la coacción, sino todo lo contrario; por haber asesinado al piloto, el acusado no consiguió su deseo de llegar a Amoy: cometió dos actos que constituyen los delitos de coacción frustrada y asesinato.

"El que allana la morada ajena, haciendo ceder a fuerza de golpes la puerta y cerradura de la misma, y, ya en ella, mata a la mujer que allí reside, y con la que había tenido antes relaciones ilícitas," no comete el delito complejo de allanamiento de morada con homicidio. Debe imponerse al acusado la pena correspondiente a cada uno de los dos delitos. (Sentencia de 24 de enero de 1881.) (2 Viada, 5.a ed., 613.)

"Preséntanse de noche dos sujetos en la morada de un tercero; llaman a la puerta, y preguntándoles la dueña qué querían, contestan que gozar de ella y de su hija; no habiéndoseles abierto, penetran a la fuerza, maltratan y golpean a los moradores, produciéndoles lesiones graves y leves, llevándose al marcharse, algunos efectos tasados en menos de 10 pesetas." Los acusados no cometen los delitos de allanamiento de morada con violencia e intimidación, lesiones graves, lesiones leves y hurto. Debe aplicarse el artículo 88 y no el artículo 90 que trata del delito complejo. (Sentencia del 10 de febrero de 1885.) (2 Viada, 5.a ed.; 614-615.) No cabe imponer al acusado, por tanto, la pena de muerte.

¿Puede el ministerio fiscal apelar?

El artículo 2 de la Regla 118 dice así:

"Quien puede apelar.—El Pueblo de Filipinas, sin embargo, no podrá apelar cuando el acusado se viese expuesto a doble *jeopardy*. En todos los demás casos, cualquiera de las partes podrá apelar de una sentencia definitiva o de auto dictado después de la sentencia que afecte los derechos esenciales del apelante."

Este artículo es reproducción de los artículos 43 y 44 de la Orden General No. 58 tal como fué enmendada por el artículo 4 de la Ley No. 2886. La Orden General No. 58 es de origen americano y, por eso, los precedentes anglo-americanos deben tenerse muy en cuenta.

En una larga lista de decisiones después de decidida en casación la causa de *Kepner contra Estados Unidos*, 195 U. S., 100; 11 Jur. Fil., 689, se ha establecido invariablemente por este Tribunal la doctrina de que la acusación no puede apelar contra una sentencia en que se absuelve al acusado, por la razón de que por segunda vez se le pone en peligro de ser castigado por el mismo delito. "El derecho común americano prohibía también un segundo juicio por el mismo delito hubiera el acusado sufrido o no algún castigo, o sido absuelto ó condenado en una causa anterior."

En la causa de *Estados Unidos contra Sanges*, citada en la *Kepner*, se dijo: "Desde la época del Lord Hale hasta la fecha del caso de *Chadwick* que acabamos de citar, los libros de texto, con raras excepciones, dan por supuesto ó afirman que el acusado, (o su representante), es el único que puede obtener un nuevo juicio ó recurrir en casación en causa criminal, y una sentencia en su favor es definitiva y concluyente. (Véanse 2 Hawk., c. 47, sec. 12; c. 50, secciones 10 y siguientes; Bac. Ab. Trial, L. 9;

Error, B; 1 Chit, Crim. Law, 657, 747; Stark. Crim. Pl. (Segunda Edición), 357, 367, 371, Archb. Crim. Pl.; (Duodécima Edición inglesa y Edición sexta americana) 177, 199.)”

“* * * ‘No se ha dado ningún caso de recurso de casación contra una sentencia en favor del acusado, después de absuelto.’ (Arhbold Cr. Pl. & Pl., Pomeroy’s Ed., 199).

“No error, however, flagrant, committed by the court against the state, can be reserved by it for decision by the supreme court when the defendant has once been placed in jeopardy and discharged, even though the discharge was the result of the error committed. *State vs. Rook*, 49 L. R. A. 186, 61, Kan. 382, 59 Pac. 653.” (1 L. R. A. 242.)

Este Tribunal nunca ha resuelto una cuestión parecida a la causa presente en que el acusado fué condenado por una pena menor que la señalada por la ley y el ministerio fiscal, en apelación, pide que, de acuerdo con el Código Penal Revisado, se imponga al acusado una pena mayor. Si el fiscal—como el acusado—puede apelar para corregir un error de ley, entonces será forzoso imponer al acusado la pena de reclusión perpetua. Después de haber sido ya—por error—condenado por el tribunal inferior a la pena de 12 años de prisión mayor a 20 años de reclusión temporal, ¿no es poner otra vez al acusado en peligro de ser condenado a mayor pena por el mismo delito? Si el acusado fuese el apelante, no tendría derecho a quejarse si se le impusiera una pena mayor, en el caso presente el que apela es el ministerio fiscal, y dicha apelación pone en peligro al acusado de recibir otra condena mayor. Creemos que en el caso presente se pone al acusado en doble *jeopardy*, esto es, en el peligro de recibir la condena de reclusión perpetua después de haber sido condenado ya por el juzgado inferior a una pena menor. Por este peligro, el ministerio fiscal no puede apelar, de acuerdo con el artículo 2 de la Regla 118 y siguiendo la garantía constitucional de que “no se pondrá a una persona en peligro de ser castigada dos veces por la misma infracción” on en *jeopardy*.

Parás, Pres., Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Labrador, Concepcion y J. B. L. Reyes, MM. concurrentes.

BENGZON, J. concurring:

I concur in the dismissal of the appeal on the ground that it places the accused in a second jeopardy. However, as the case is not properly before this Court, we have no business discussing the correctness of the penalty. Whether correct or not, it must stand. In effect, therefore, we are rendering either an advisory opinion which

we are not empowered to render, or a declaratory judgment on a controversy not covered by the rules. A practice is thereby inaugurated allowing the prosecution to appeal on questions of law "for future guidance of trial courts", without affecting the prisoner—practice which is some states is observed pursuant to specific statutory direction (cf. C. J. S. Vol. 24 pp. 262, 263 and cases cited) not embodied in the set of Philippine laws.

Se desestima la apelación.

[No. L-6600. July 30, 1954]

HEIRS OF JUAN BONSAITO and FELIPE BONSAITO, petitioners,
vs. COURT OF APPEALS and JOSEFA UTEA, ET AL., respondents.

1. WILLS AND DONATIONS "MORTIS CAUSA"; NO ONE MAY BOTH DONATE AND RETAIN.—Despite the widespread use of the term donations *mortis causa*, it is well-established at present that the Civil Code of 1889, in its article 620, broke away from the Roman Law tradition, and followed the French doctrine that no one may both donate and retain, by merging the erstwhile donations *mortis causa* with the testamentary dispositions, thus suppressing said donations as an independent legal concept. The term "donations *mortis causa*" as now commonly employed is merely a convenient name to designate those dispositions of property that are void when made in the form of donations.
2. ID.; ID.; REQUISITES OF A DISPOSITION "MORTIS CAUSA".—A disposition *post mortem* should reveal the following characteristics: (1) the transferor retains the ownership (full or naked) and control the property while alive; (2) the transfer is revocable, before his death, by the transferor at will, *ad nutum*; and (3) the transfer should be void if the transferor should survive the transferee.
3. ID.; DONATIONS "INTER VIVOS".—If the donor conveys the ownership and only reserves for himself during his lifetime the owner's share of the fruits or produce, and the deed expressly declares the act to be "irrevocable", it is not a donation *mortis causa*, but a conveyance *inter vivos*.
4. DONATIONS "MORTIS CAUSA"; CASES THEREON.—In the cases held by the Supreme Court to be transfers *mortis causa* and declared invalid for not having been executed with the formalities of testaments, the circumstances clearly indicated the transferor's intention to defer the passing of title until after his death. (Cariño vs. Abaya, 70 Phil., 182; Bautista vs. Sabiniano, 49 Off. Gaz. (No. 2), p. 549; David vs. Sison, 42 Off. Gaz., p. 3155.)
5. DONATIONS "INTER VIVOS"; REQUISITES.—The solemnities required for a donation *inter vivos* are those prescribed by article 633 of the Civil Code of 1889 (reproduced in article 749, new Civil Code).

APPEAL by certiorari from the decision of the Court of Appeals.

The facts are stated in the opinion of the court.

Benedicto C. Balderrama for the petitioners.

Inocencio Rosete for the respondents.

REYES, J. B. L., J.

This is a petition for review of a decision of the Court of Appeals holding two deeds of donation executed on the first day of December, 1939 by the late Domingo Bonsato in favor of his brother Juan Bonsato and of his nephew Felipe Bonsato, to be void for being donations *mortis causa* accomplished without the formalities required by law for testamentary dispositions.

The case was initiated in the Court of First Instance of Pangasinan (Case No. 8892) on June 7, 1945, by respondents Josefa Utea and others heirs of Domingo Bonsato and his wife Andrea Nacario, both deceased. Their complaint (for annulment and damages) charged that on the first day of December, 1949, Domingo Bonsato, then already a widower, had been induced and deceived into signing two notarial deeds of donations (Exhibits 1 and 2) in favor of his brother Juan Bonsato and of his nephew Felipe Bonsato, respectively, transferring to them several parcels of land covered by Tax Declarations Nos. 5652, 12049, and 12052, situated in the municipalities of Mabini and Burgos, Province of Pangasinan, both donations having been duly accepted in the same act and documents. Plaintiffs likewise charged that the donations were *mortis causa* and void for lack of the requisite formalities. The defendants, Juan Bonsato and Felipe Bonsato, answered averring that the donations made in their favor were voluntarily executed in consideration of past services rendered by them to the late Domingo Bonsato; that the same were executed freely without the use of force and violence, misrepresentation or intimidation; and prayed for the dismissal of the case and for damages in the sum of P2,000.

After trial, the Court of First Instance rendered its decision on November 13, 1949, finding that the deeds of donation were executed by the donor while the latter was of sound mind, without pressure or intimidation; that the deeds were of donation *inter vivos* without any condition making their validity or efficacy dependent upon the death of the donor; but as the properties donated were presumptively conjugal, having been acquired during the coverture of Domingo Bonsato and his wife Andrea Nacario, the donations were only valid as to an undivided one-half share in the three parcels of land described therein.

Thereupon the plaintiffs duly appealed to the Court of Appeals, assigning as primary error the holding of the court below that the donations are *inter vivos*; appellants contending that they were *mortis causa* donations, and invalid because they had not been executed with the formalities required for testamentary dispositions.

A division of five of the Court of Appeals took the case under consideration, and on January 12, 1953, the majority rendered judgment holding the aforesaid donations to be null and void, because they were donations *mortis causa* and were executed without the testamentary formalities prescribed by law, and ordered the defendants-appellees Bonsato to surrender the possession of the properties in litigation to the plaintiffs-appellants. Two Justices dissented, claiming that the said donations should be considered as donations *inter vivos* and voted for the affirmance of the decision of the Court of First Instance. The donees then sought a review by this Court.

The sole issue submitted to this Court, therefore, is the juridical nature of the donations in question. Both deeds (Exhs. 1 and 2) are couched in identical terms, with the exception of the names of the donees and the number and description of the properties donated. The principal provisions are the following:

"ESCRITURA DE DONACIÓN

"Yo, DOMINGO BONSATO, viudo de Andrea Nacario, mayor de edad, vecino y residente del municipio de Agno, Pangasinan, I.F., por la presente declaro lo siguiente:

"Que mi sobrino FELIPE BONSATO, casado, también mayor de edad, vecino de Agno, Pangasinan, I.F., en consideración de su largo servicio a Domingo Bonsato, por la presente hago y otorgo una donación perfecta e irrevocable consumada a favor del citado Felipe Bonsato de dos parcelas de terreno palayero como se describe mas abajo.

(Description omitted)

"Que durante su menor de edad de mi citado sobrino Felipe Bonsato hasta en estos días, siempre me ha apreciado y estimado como uno de mis hijos y siempre ha cumplido todos mis ordenes, y por esta razón bajo su pobreza sea movido mi sentimiento para dar una recompensa de sus trabajos y aprecio a mi favor.

"Que en este de 1939 el donante Domingo Bonsato ha entregado a Felipe Bonsato dichos terrenos donados y arriba citados pero de los productos mientras vive el donante tomará la parte que corresponde como dueño y la parte como inquilino tomará Felipe Bonsato.

"Que en vista de la vejez del donante, el donatario Felipe Bonsato tomará posesión inmediatamente de dichos terrenos a su favor.

"Que después de la muerte del donante entrara en vigor dicha donación y el donatario Felipe Bonsato tendrá todos los derechos de dichos terrenos en concepto de dueño absoluto de la propiedad libre de toda responsabilidad y gravamen y pueda ejercitar su derecho que crea conveniente.

"EN TESTIMONIO DE TODO LO CUAL, signo la presente en Agno, Pangasinan, I.F., hoy día 1.º de diciembre, 1939.

Domingo (his thumbmark) Bonsato

"Yo, Felipe Bonsato, mayor de edad, casado, Vecino de Mabini, Pangasinan, I.F., declara por la presente que acepto la donación anterior otorgado por Domingo Bonsato a mi favor.

(Sgd.) FELIPE BONSATO

SIGNADO Y FIRMADO EN PRESENCIA DE:

(Sgd.) ILLEGIBLE

(Sgd.) ILLEGIBLE"

The majority of the special division of five of the Court of Appeals that took cognizance of this case relied primarily on the last paragraph, stressing the passage:

"Que después de la muerte del donante entrará en vigor dicha donación"

while the minority opinion lay emphasis on the second paragraph, wherein the donor states that he makes "perfect, irrevocable, and consummated donation" of the properties to the respective donees, petitioners herein.

Strictly speaking, the issue is whether the documents in question embody valid donations, or else legacies void for failure to observe the formalities of wills (testaments). Despite the widespread use of the term "donations *mortis causa*," it is well-established at present that the Civil Code of 1889, in its Art. 620, broke away from the Roman law tradition, and followed the French doctrine that no one may both donate and retain ("donner at retenir ne vaut"), by merging the erstwhile donations *mortis causa* with the testamentary dispositions, thus suppressing said donations as an independent legal concept.

ART. 620. Donations which are to become effective upon the death of the donor partake of the nature of disposals of property by will and shall be governed by the rules established for testamentary successions.

Commenting on this article, Mucius Scaevola (Código Civil, Vol. XI, 2ª parte, pp. 573, 575 says:

"No ha mucho formulabamos esta pregunta: Subsisten las donaciones *mortis causa* como institución independiente, con propia autonomía y propio compo jurisdiccional? La respuesta debe ser negativa.

* * * * *

Las donaciones *mortis causa* se conservan en el Código como se conserva un cuerpo fósil en las vitrinas de un Museo. La asimilación entre las donaciones por causa de muerte y las transmisiones por testamento es perfecta."

Manresa, in his Commentaries (5th ed.), Vol. V. p. 83, expresses the same opinion:

"La disposición del artículo 620 significa, por lo tanto: 1.º, que han desaparecido las llamadas antes donaciones *mortis causa* por lo que el Código no se ocupa de ellas en absoluto; 2.º, que toda disposición de bienes para después de la muerte sigue las reglas establecidas para la sucesión testamentaria."

And Castán, in his Derecho Civil, Vol. IV (7th Ed., 1953), p. 176, reiterates:

"(b) Subsisten hoy en nuestro derecho las donaciones *mortis causa*? De lo que acabamos de decir se desprende que las donaciones *mortis causa* han perdido en el Código Civil su carácter distintivo y su naturaleza y hay que considerarlos hoy como una institución suprimida, refundida en el legado * * * La tesis de la desaparición de las donaciones *mortis causa* en nuestro Código Civil, acusada ya precedentemente

por el proyecto de 1851 puede decirse que constituye una *cómunis opinio* entre nuestros expositores, incluso los más recientes."

We have insisted on this phase of the legal theory in order to emphasize that the term "*donations mortis causa*" as commonly employed is merely a convenient name to designate those dispositions of property that are void when made in the form of donations.

Did the late Domingo Bonsato make donations *inter vivos* or dispositions *post mortem* in favor of the petitioners herein? If the latter, then the documents should reveal any or all of the following characteristics:

(1) Convey no title or ownership to the transferee before the death of the transferor; or, what amounts to the same thing, that the transferor should retain the ownership (full or naked) and control of the property while alive (*Vidal vs. Posadas*, 58 Phil., 108; *Guzman vs. Ibea*, 67 Phil., 633);

(2) That before his death, the transfer should be revocable by the transferor at will, *ad nutum*; but revocability may be provided for indirectly by means of a reserved power in the donor to dispose of the properties conveyed (*Bautista vs. Sabiniano*, G. R. L-4326, November 18, 1952);

(3) That the transfer should be void if the transferor should survive the transferee.

None of these characteristics is discernible in the deeds of donation, Exhibits 1 and 2, executed by the late Domingo Bonsato. The donor only reserved for himself, during his lifetime, the owner's share of the fruits or produce ("*de los productos mientras viva el donante tomará la parte que corresponde como dueño*"), a reservation that would be unnecessary if the ownership of the donated property remained with the donor. Most significant is the absence of stipulation that the donor could revoke the donations; on the contrary, the deeds expressly declare them to be "*irrevocable*", a quality absolutely incompatible with the idea of conveyances *mortis causa* where revocability is of the essence of the act, to the extent that a testator can not lawfully waive or restrict his right of revocation (Old Civil Code, Art. 737; New Civil Code, Art. 828).

It is true that the last paragraph in each donation contains the phrase "that after the death of the donor the aforesaid donation shall become effective" (*que después de la muerte del donante entrará en vigor dicha donación*). However, said expression must be construed together with the rest of the paragraph, and thus taken, its meaning clearly appears to be that after the donor's death, the donation will take effect so as to make the donees the absolute owners of the donated property, free

from all liens and encumbrances; for it must be remembered that the donor reserved for himself a share of the fruits of the land donated. Such reservation constituted a charge or encumbrance that would disappear upon the donor's death, when full title would become vested in the donees.

"Que después de la muerte del donante entrara en vigor dicha donación y el donatario Felipe Bonsato tendrá todos los derechos de dichos terrenos en concepto de dueño absoluto de la propiedad libre de toda responsabilidad y gravamen y pueda ejercitar su derecho que crea conveniente."

Any other interpretation of this paragraph would cause it to conflict with the irrevocability of the donation and its consummated character, as expressed in the first part of the deeds of donation, a conflict that should be avoided (Civ. Code, of 1889, Art. 1285; New Civil Code, Art. 1374; Rule 123, sec. 59, Rules of Court).

"Que mi sobrino FELIPE BONSAITO, casado, también mayor de edad, vecino de Agno, Pangasinan, I.F., en consideración de su largo servicio a Domingo Bonsato, por la presente hago y otorgo una donación perfecta e irrevocable consumada a favor del citado Felipe Bonsato de dos parcelas de terreno palayero como se describe mas abajo."

In the cases held by this Court to be transfers *mortis causa* and declared invalid for not having been executed with the formalities of testaments, the circumstances clearly indicated the transferor's intention to defer the passing of title until after his death. Thus, in *Cariño vs. Abaya*, 70 Phil., 182, not only were the properties not to be given until thirty days after the death of the last of the donors, but the deed also referred to the donees as "those who had been mentioned to *inherit* from us"; the verb "to inherit" clearly implying the acquisition of property only from and after the death of the alleged donors. In *Bautista vs. Sabiniano*, G. R. No. L-4236, Nov. 18, 1952, the alleged donor expressly reserved the right to dispose of the properties conveyed at any time before his death, and limited the donation "to whatever property or properties left undisposed by me during my lifetime", thus clearly retaining their ownership until his death. While in *David vs. Sison*, 42 Off. Gaz. (Dec. 1946) 3155, the donor not only reserved for herself all the fruits of the property allegedly conveyed, but what is even more important, specially provided that "without the knowledge and consent of the donor, the donated properties could not be disposed of in any way", thereby denying to the transferees the most essential attribute of ownership, the power to dispose of the properties. No similar restrictions are found in the deeds of donation involved in this appeal.

That the conveyance was due to the affection of the donor for the donees and the services rendered by the lat-

ter, is of no particular significance in determining whether the deeds Exhibits 1 and 2 constitute transfers *inter vivos* or not, because a legacy may have identical motivation. Nevertheless, the existence of such consideration corroborates the express irrevocability of the transfers and the absence of any reservation by the donor of title to, or control over, the properties donated, and reinforces the conclusion that the act was *inter vivos*. Hence, it was error for the Court of Appeals to declare that Exhibits 1 and 2 were invalid because the formalities of testaments were not observed. Being donations *inter vivos*, the solemnities required for them were those prescribed by Article 633 of the Civil Code of 1889 (reproduced in Art. 749 of the new Code), and it is undisputed that these were duly complied with. As the properties involved were conjugal, the Court of First Instance correctly decided that the donations could not affect the half interest inherited by the respondents Josefa Utea, et al. from the predeceased wife of the donor.

The decision of the Court of Appeals is reversed, and that of the Court of First Instance is revived and given effect. Costs against respondents.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, and Concepcion, JJ., concur.

Judgment reversed.

[No. L-6772. July 30, 1954]

ANTONIO UY, petitioner and appellant, *vs.* JOSE RODRIGUEZ, Mayor of the City of Cebu, respondent and appellee

ADMINISTRATIVE LAW; PUBLIC OFFICERS; CIVIL SERVICE LAW; REMOVAL OF DETECTIVES.—The ousted detective states that he is not a civil service eligible but that it does not appear from the record that his appointment as member of the detective force was temporary in character or for periods of three months merely, and that he had been reappointed every three months until his separation now in question. The Mayor of Cebu claims that said detective's position is primarily confidential and, therefore, Executive Order No. 264, series of 1940, of the President of the Philippines is applicable to the petitioner; that detectives in the City of Cebu pertain to the "detective service," which is distinct from the city of police force and, therefore, the provisions of Republic Act No. 557, which require investigation prior to dismissal of a member of the city police force, are not, applicable. *Held:* The above-mentioned circumstances, in addition to the fact that said detective was promoted as senior detective inspector, show that his appointment is not in a temporary capacity. He may not, therefore, be dismissed or removed except in accordance with the provisions of Republic Act No. 557. (*Palamine vs. Zapada*, April 1954 Gaz., p. 1566; *Mission vs. Del Rosario*, April 1954 Gaz., p. 1571; *Abella vs. Rodriguez*, L-6867, June 29, 1954.)

APPEAL from a judgment of the Court of First Instance of Cebu. *Saguin, J.*

The facts are stated in the opinion of the court.

Fernando S. Ruiz and *Emilio A. Matheu* for the petitioner and appellant.

Jose L. Abad and *Quirico del Mar* for the respondent and appellee.

LABRADOR, J.:

This is an appeal from a judgment of the Court of First Instance of Cebu dismissing the petition for mandamus instituted in that court by Antonio Uy against Jose Rodriguez, mayor of the City of Cebu. Petitioner Antonio Uy, was appointed deputy inspector of the detective force, police department, of the City of Cebu on July 1, 1946. On July 1, 1947, he was promoted to the position of senior detective inspector. He held this position from that date until September 5, 1952, when the respondent city mayor dispensed with his services on the ground that he can no longer repose his trust and confidence in him. Upon receiving this notice of dismissal, petitioner requested the mayor to reinstate him, but the latter refused to do so. Hence, this action of mandamus.

The court *a quo* held that the position held by the petitioner is primarily confidential and, therefore, Executive Order No. 264, series of 1940, of the President of the Philippines is applicable to the petitioner; that detectives in the City of Cebu pertain to the "detective service," which is distinct from the city police force and, therefore, the provisions of Republic Act No. 557, which require investigation prior to the dismissal of a member of the city police force are not applicable.

The question raised in this special civil action has already been decided squarely by us in the cases of *Palormine, et al., vs. Zapada, et al.*, G. R. No. L-6901, promulgated March 15, 1954; *Mission, et al., vs. del Rosario*, G. R. No. L-6754, promulgated February 26, 1954; and *Abella vs. Rodriguez*, G. R. No. L-6867, promulgated June 29, 1954. In said cases, we have held that a member of the detective force of Cebu City is a member of the police department of said city and may not be removed except in accordance with the provisions of Republic Act No. 557.

The statement submitted by the petitioner shows that he is not a civil service eligible, but neither does it appear from the record that his appointment as member of the detective force was temporary in character or for periods of three months merely, and that he had been reappointed every three months until his separation. These circumstances, in addition to the fact that he was promoted as senior detective inspector, show that his appointment is not in a temporary capacity. He may not,

therefore, be dismissed or removed except in accordance with the provisions of existing law.

The judgment appealed from is hereby reversed and the respondent city mayor is ordered to reinstate the petitioner to his former position of senior detective inspector in the detective force of the City of Cebu, with right to arrears in salary from the time of his separation to the date of his reinstatement. Without costs.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Concepcion, and J. B. L. Reyes, JJ., concur.

Judgment reversed.

(No. L-7220. July 30, 1954)

TEODORO VAÑO, petitioner, *vs.* HIPOLITO ALO, as Judge of the Court of First Instance of Bohol, PEDRO DUMADAG, and ESMENIO JUMAMUY, respondents.

1. PARTIES; IMPLEADING OF REAL PARTIES, APPLICABLE TO PARTIES PLAINTIFF ONLY.—The rule requiring real parties to be impleaded is applicable to parties plaintiffs, not to parties defendant.
2. ID.; ID.; PLAINTIFF CAN CHOOSE CAUSE OF ACTION AND PARTIES HE DESIRES TO SUE WITHOUT IMPOSITION BY COURT OR ADVERSE PARTY.—It is the absolute prerogative of the plaintiff to choose the theory upon which he predicates his right of action, or the parties he desires to sue, without dictation or imposition by the court or the adverse party. If he makes a mistake in the choice of his right of action, or in that of the parties against whom he seeks to enforce it, that is his own concern as he alone suffers therefrom.
3. ID.; ID.; ID.; REMEDY OF OFFICERS SUED WHO DESIRE TO IMPEAD MEMBERS OF UNREGISTERED CORPORATION—THIRD PARTY COMPLAINT.—Where the plaintiff sued the officers alone, and the latter desire to implead the members of the unregistered corporation and make them equally responsible in the action, their remedy is by means of a third party complaint, in accordance with Rule 12 of the Rules of Court. But they can not, compel the plaintiff to choose his defendants. He may not, at his own expense, be forced to implead any one who, under adverse party's theory, is to answer for the defendants' liability. Neither may the court compel him to furnish the means by which defendants may avoid or mitigate their liability.
4. ID.; ID.; ID.; ID.; INDISPENSABLE PARTY AND PARTY JOINTLY OR ULTIMATELY RESPONSIBLE FOR OBLIGATION WHICH IS SUBJECT OF ACTION, DISTINGUISHED.—Where the complaint specifically alleged that the defendants, purporting to be the president and general manager of an unregistered corporation, entered into the contract by themselves, the presence of the members of the association is not essential to the final determination of the issue presented, the evident intent of the complaint being to make the officers directly responsible. (Article 287, Code of Commerce, *supra*). The alleged responsibility of the members for the contract to the officers, who acted as their agents, is not in issue and need not be determined in the action to fix the responsibility of the officers to plaintiff's intestate, hence said members are not indispensable in the action instituted.

ORIGINAL ACTION in the Supreme Court. Certiorari.

The facts are stated in the opinion of the court.

Roque R. Luspo for the petitioner.

Victoriano Tirol for the respondents.

LABRADOR, J.:

Petitioner instituted this action of certiorari to reverse an order of the Court of First Instance of Bohol refusing to admit his fourth amended complaint. The record discloses the following facts and circumstances as a background for the petition:

Around the year 1947 respondents herein Pedro Dumadag and Esmenio Jumamuy, purporting to be the president and general manager, respectively, of an unregistered corporation or association denominated APBA Cinematographic Shows, Inc., leased certain theatrical equipments from the late Jose Vaño at an agreed monthly rental of P200. Jose Vaño having died, his administrator, the present petitioner, filed an action in the Court of First Instance of Bohol for the return of the theatrical equipments and the payment of the agreed rentals. The original complaint was filed in September, 1947. Upon the filing of this complaint the association was dissolved. Counsel for the defendants below, respondents herein, appears to have insisted that all the members of the association should be made parties defendants, but petitioner was not inclined to do so. On January 28, 1953, the court ordered petitioner's counsel to submit a fourth amended complaint. This complaint in part alleges:

2. That in or about February 1947, defendants purporting to be the president and general manager respectively of the so-called "APBA" Cinematographic Shows Inc., leased from the late Jose Vaño, the aforementioned Technical Equipments at an agreed monthly rental of Two HUNDRED (P200) PESOS and that he (Jose Vaño) shall pay the expenses in the installation for the same shall be returned on his demand;

3. That said Theatrical Equipments mentioned in paragraph 1, had been completely installed at the beginning of the month of February, 1947, at the "APBA" building Calape, Bohol, and since then the said show house begun its operation;

4. That upon inquiry, the plaintiff was informed and so allege that the "APBA" Cinematographic Shows Inc. has never been registered, hence Dumadag and Jumamuy who acted as the president and general manager respectively are the ones made as party defendants;

Plaintiff did not include the members of the unregistered corporation as parties defendants, and so they were not summoned. On September 14, 1953, the court *a quo* entered the order complained of, which is as follows:

The association represented by defendants Pedro Dumadag and Esmenio Jumamuy, is not included as party defendant in the fourth amended complaint. It is a legal requirement that any action should be brought against the real party in interest.

In view of the opposition filed by the defendants Pedro Dumadag and Esmenio Jumamuy, the court denies the admission of plaintiff's fourth amended complaint dated February 17, 1953, and objected to on the date of the trial.

The fourth amended complaint (paragraph 2, *supra*) alleges that defendants, purporting to be the president and general manager of the unregistered corporation, leased the theatrical equipments from the plaintiff, petitioner herein. Said defendants, according to the complaint, did not enter into the contract in the name or on behalf of the corporation; consequently, the law applicable is Article 287 of the Code of Commerce, which provides:

ART. 287. A contract entered into by the factor in his own name shall bind him directly to the person with whom it was made; but if the transaction was made for the account of the principal, the other contracting party may bring his action either against the factor or against the principal.

The opposition of the respondents to the admission of the fourth amended complaint is procedural in nature, i.e., that notwithstanding the fact that the APBA was not registered, all its members should be included as parties defendants as provided in section 15 of Rule 3 of the Rules of Court. The trial court was of the opinion that the inclusion of the members was necessary as it considered them as "real parties in interest." In this respect, the trial court committed an error as the rule requiring real parties to be impleaded is applicable to parties plaintiffs, not to parties defendants.

It is the absolute prerogative of the plaintiff to choose the theory upon which he predicates his right of action, or the parties he desires to sue, without dictation or imposition by the court or the adverse party. If he makes a mistake in the choice of his right of action, or in that of the parties against whom he seeks to enforce it, that is his own concern as he alone suffers therefrom. Granting that the members of the unregistered corporation may be held responsible, partly or wholly, for the agreement entered into by the officers who acted for the corporation, the fact remains that the plaintiff in the case at bar chose not to implead them, suing the officers alone. If the officers desire to implead them and make them equally responsible in the action, their remedy is by means of a third party complaint, in accordance with Rule 12 of the Rules of Court. But they can not compel the plaintiff to choose his defendants. He may not, at his own expense, be forced to implead any one who, under adverse party's theory, is to answer for the defendants' liability. Neither may the court compel him to furnish the means by which defendants may avoid or mitigate their liability. This was in effect what counsel for respondents wanted to compel the petitioner to do, and which the court was persuaded to do—

force the plaintiff to include the members of the unregistered corporation as parties defendants—and when plaintiff refused to do so, it rejected his fourth amended complaint.

The court's order, in so far as it demands the inclusion of the members of the unregistered corporation, has evidently been induced by a confusion between an indispensable party and a party jointly or ultimately responsible for the obligation which is the subject of an action. The members of the unregistered corporation could be responsible for the rentals of the equipments jointly with their officers. But the complaint specifically alleges that said officers entered into the contract by themselves, hence the presence of the members is not essential to the final determination of the issue presented, the evident intent of the complaint being to make the officers directly responsible. (Article 287, Code of Commerce, *supra*.) The alleged responsibility of the members of the corporation for the contract to the officers, who acted as their agents, is not in issue and need not be determined in the action to fix the responsibility of the officers to plaintiff's intestate, hence said members are not indispensable in the action instituted.

We find that the trial court abused its discretion in refusing to admit plaintiff's fourth amended complaint. The writ prayed for is hereby granted, the order complained of reversed, and the complaint ordered admitted, and the court *a quo* is hereby directed to proceed thereon according to the rules. With costs against respondents Pedro Dumadag, and Esmenio Jumamuy.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Concepcion, and J. B. L. Reyes, JJ., concur.

Writ is granted and order complained of is reversed.

[No. L-6335. July 31, 1954]

GLICERIA ROSETE, plaintiff and appellee, *vs.* PROVINCIAL SHERIFF OF ZAMBALES, SIMPLICIO YAP and CORAZON YAP, defendants and appellants.

EXECUTION; REDEMPTION BY WIFE OF CONJUGAL PROPERTY SOLD ON EXECUTION; REDEEMED PROPERTY BECOMES PARAPHERNAL.—Inasmuch as the wife redeemed two parcels of land belonging to the conjugal partnership which were sold on execution, with money obtain by her from her father, the two parcels of land has become paraphernal and as such is beyond the reach of further execution. (Section 23 of Rule 39; 1 Moran, Comments on the Rules of Court, 1952 ed., pp. 841-842; article 1596, old Civil Code; *Hepfner vs. Orton*, 12 Pac., 486; *Taylor vs. Taylor*, 92 So., 109; *Malone vs. Nelson*, 167 So., 714.) She has acquired it by right of redemption as successor in interest

of her husband. It has ceased to be the property of the judgment debtor. It can no longer therefore be the subject of execution under a judgment exclusively affecting the personal liability of the latter.

APPEAL from a decision of the Court of First Instance of Zambales. Maglanoc, J.

The facts are stated in the opinion of the court.

Ricardo N. Agbunag for the defendants and appellants.

Jorge A. Pascua for the plaintiff and appellee.

BAUTISTA ANGELO, J.:

In criminal case No. 2897 for murder of the Court of First Instance of Zambales, Epifanio Fularon was convicted and sentenced to indemnify the heirs of the victim in the amount of P2,000.

On February 10, 1949, to satisfy said indemnity, a writ of execution was issued and the sheriff levied upon four parcels of land belonging to the conjugal partnership of Epifanio Fularon and Gliceria Rosete. These parcels of land were sold at public auction as required by the rules for the sum of P1,385.00, leaving an unsatisfied balance of P739.34.

On March 8, 1950, Gliceria Rosete redeemed two of the four parcels of land which were sold at public auction for the sum of P879.20, the sheriff having executed in her favor the corresponding deed of repurchase.

On April 10, 1950, an alias execution was issued to satisfy the balance of the indemnity and the sheriff levied upon the two parcels of land which were redeemed by Gliceria Rosete and set a date for their sale. Prior to the arrival of this date, however, Gliceria Rosete filed a case for injunction to restrain the sheriff from carrying out the sale praying at the same time for a writ of preliminary injunction. This writ was issued upon the filing of the requisite bond but was later dissolved upon a motion filed by defendants who put up a counter-bond.

The dissolution of the injunction enabled the sheriff to carry out the sale as originally scheduled and the property was sold to one Raymundo de Jesus for the sum of P970. This development prompted the plaintiff to amend her complaint by praying therein, among other things, that the sale carried out by the sheriff be declared null and void. After due trial, wherein the parties practically agreed on the material facts pertinent to the issue, the court rendered decision declaring the sale null and void. The defendants appealed, and the case was certified to this court on the plea that the appeal involves purely questions of law.

The question to be decided is whether the sale made by the sheriff on May 9, 1950 of the two parcels of land

which were redeemed by Gliceria Rosete in the exercise of her right of redemption is valid it appearing that they formed part of the four parcels of land belonging to the conjugal partnership which were originally sold to satisfy the same judgment of indemnity awarded in the criminal case. The lower court declared the sale null and void on the strength of the ruling laid down in the case of *Lichauco vs. Olegario*, 43 Phil., 540, and this finding is now disputed by the appellants.

In the case above adverted to, Lichauco obtained a judgment against Olegario for the sum of P72,766.37. To satisfy this judgment, certain real estate belonging to Olegario was levied in execution and at the sale Lichauco bid for it for the sum of P10,000. Olegario, on the same day, sold his right of redemption to his cousin Dalmacio. Later, Lichauco asked for an alias writ of execution and the sheriff proceeded with the sale of the right of redemption of Olegario whereat Lichauco himself bid for the sum of P10,000. As Lichauco failed to register the sale owing to the fact that the sale executed by Olegario in favor of his cousin was already recorded, Lichauco brought the matter to court to test the validity of the latter sale. One of the issues raised was, "Whether or not Faustino Lichauco, as an execution creditor and purchaser at the auction in question was entitled, after his judgment had thus been executed but not wholly satisfied, to have it executed again by levying upon the right of redemption over said properties." The court ruled that this cannot be done for it would render nugatory the means secured by law to an execution debtor to avoid the sale of his property made at an auction under execution. Said this Court:

"We, therefore, find that the plaintiff, as a judgment creditor, was not, and is not, entitled, after an execution has been levied upon the real properties in question by virtue of the judgment in his favor, to have another execution levied upon the same properties by virtue of the same judgment to reach the right of redemption which the execution debtor and his privies retained over them."

Inasmuch as the Lichauco case refers to the levy and sale of the right of redemption belonging to a judgment debtor and not to the levy of the very property which has been the subject of execution for the satisfaction of the same judgment, it is now contended that it cannot be considered as a precedent in the present case for here the second levy was effected on the same property subject of the original execution. But this argument falls on its own weight when we consider the following conclusion of the court, "* * * what we wish to declare is that a judgment by virtue of which a property is sold at public auction *can have no further effect on such property.*" (Italics supplied)

Nevertheless, when this case came up for discussion some members of the Court expressed doubt as to the applicability of the Lichauco case considering that it does not decide squarely whether the same property may be levied on an alias execution if it is reacquired by the judgment debtor in the exercise of his right of redemption, and as on this matter the requisite majority could be obtained the inquiry turned to another issue which for purposes of this case is sufficient to decide the controversy.

The issue is: Since it appears that plaintiff redeemed the two parcels of land in question with money obtained by her from her father, has the property become paraphernal and as such is beyond the reach of further execution?

We are of the opinion that the question should be answered in the affirmative for the following reasons: (a) Gliceria Rosete, the wife, redeemed the property, not in behalf of her husband, but as successor in interest in the whole or part of the property, it being then conjugal. The term "successor in interest" appearing in subdivision (a), Section 25, Rule 39, includes, according to Chief Justice Moran, "one who succeeds to the interest of the debtor by operation of law" or "the wife as regards her husband's homestead by reason of the fact that some portion of her husband's title passes to her (Comments on the Rules of Court, 1952 ed., Vol. 1, pp. 841-842); and (b) a property is deemed to belong exclusively to the wife (1) when acquired by her by right of redemption, and (2) with money belonging exclusively to her (Article 1396, old Civil Code).

The interest which a wife has in conjugal property in this jurisdiction may be likened to that of a wife in a homestead in American jurisdiction. That interest is known as "inchoate right of dower", or a "contingent interest." By virtue of this inchoate right, a wife has a right of redemption of a homestead as *successor in interest* of her husband. Thus, in *Hepfner vs. Urton*, 12 Pac., 486, it was held that by the declaration of homestead by the husband of the property sold a portion of his title passed to his wife, and "she had the right of residence thereon with him and the family during their joint lives, *with some rights in case she should survive him*. She had a right of redemption as his *successor in interest*." (Italics supplied) In *Taylor vs. Taylor*, 92 So., 109, where a mortgage was executed on a homestead and the husband refused to pay the indebtedness, it was held that "the wife's 'inchoate right of dower', which is more than a possibility and may well be denominated a contingent interest, was a sufficient interest in the lands

mortgage." And in *Malone vs. Nelson, et al.*, 167 So., 714, it was declared that "the right of the wife to redeem is rested upon her interest—inchoate right of dower—a right subject to a monetary valuation." These authorities have persuasive effect considering the source of our rule on the matter.

The property in question has therefore become the exclusive property of the plaintiff. She has acquired it by right of redemption as successor in interest of her husband. It has ceased to be the property of the judgment debtor. It can no longer therefore be the subject of execution under a judgment exclusively affecting the personal liability of the latter. The conclusion reached by the lower court on this matter is therefore not warranted by law.

Wherefore, the decision appealed from is modified as follows: the sale of the two parcels of land executed by the sheriff on May 9, 1950 in favor of Raymundo de Jesus for P970 is hereby declared null and void, and the deed of repurchase executed by the sheriff in favor of the plaintiff on March 8, 1950 is hereby revived and maintained. The rest of the decision is declared without effect. No pronouncement as to costs.

Parás, C. J., Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Labrador, Concepcion, and J. B. L. Reyes, JJ., concur.

Judgment modified.

[No. L-6768. July 31, 1954]

SALUD R. ARCA and ALFREDO JAVIER, JR., plaintiffs and appellees, *vs.* ALFREDO JAVIER, defendant and appellant

1. DIVORCE CONDITIONS ESSENTIAL TO DECLARE FOREIGN DIVORCE IN THIS JURISDICTION; ANSWER FILED BY LOCAL RESIDENT DOES NOT CONFER JURISDICTION TO FOREIGN COURT.—In 1937, A, a natural born Filipino citizen, married S, another Filipino citizen. Before their marriage they had already a child, who thereby became legitimated. A enlisted in the United States Navy and later sailed for the United States leaving behind his wife and child. On August 13, 1940, he filed an action for divorce in the Circuit Court of Mobile County, Alabama, U. S. A., alleging as ground abandonment by his wife. Having received a copy of the complaint, S filed an answer alleging, among other things, that A was a resident of Mobile County, but of Naic, Cavite, Philippines, and that it was not true that the cause of their separation was abandonment on her part but that A was in the United States, without her, because he was then enlisted in the U. S. Navy. The Circuit Court of Mobile County granted the divorce on April 9, 1941. Does this decree have a valid effect in this jurisdiction? *Held:* This court, in a number of cases of similar nature, has invariably denied the validity of the divorce decree. In essence, it was held that one of the essential conditions for the validity of a decree of divorce is that the

court must have jurisdiction over the subject matter and in order that this may be acquired, plaintiff must be domiciled in good faith in the State in which it is granted (*Cousins Hix vs. Fluemer*, 55 Phil., 851, 856). * * * "And assuming that (plaintiff) acquired legal residence in the State of Nevada through the approval of his citizenship papers, this would not confer jurisdiction on the Nevada court to grant divorce that would be valid in this jurisdiction, nor jurisdiction that could determine their matrimonial status, because the wife was still domiciled in the Philippines. The Nevada court never acquired jurisdiction over her person." (*Sikat vs. Canson*, 67 Phil., 207.) The answer filed by S, in view of the summons served upon her in this jurisdiction, cannot be interpreted as placing her under the jurisdiction of the court because its only purpose was to impugn the claim of A that his domicile or legal residence at that time was Mobile County, and to show that the ground of desertion imputed to her was baseless and false. Such answer should be considered as a special appearance the purpose of which is to impugn the jurisdiction of the court over the case.

2. ID.; RESIDENCE; PERMANENT RESIDENCE REQUIRED TO CONFER JURISDICTION ON FOREIGN COURT.—Where a local resident went to a foreign country, not with the intention of permanently residing there, or of considering that place as his permanent abode, but for the sole purpose of obtaining divorce from his wife, such residence is not sufficient to confer jurisdiction on the foreign court.

3. ID.; GROUNDS FOR DIVORCE UNDER ACT NO. 2710; FOREIGN JUDGMENT CONTRARY TO LAWS OF THE FORUM, CANNOT BE ENFORCED.—Under section 1 of Act No. 2710, the courts in the Philippines can grant divorce only on the ground of adultery on the part of the wife or concubinage on the part of the husband, and if the decree is predicated on another ground, that decree cannot be enforced in this jurisdiction. The divorce decree in question was granted on the ground of desertion, clearly not a cause for divorce under our laws. This is in keeping with the well-known principle of Private International Law which prohibits the extension of foreign judgment, or the law affecting the same, if it is contrary to the law fundamental policy of the State of the forum. (*Minor, Conflict of Laws*, pp. 8-14.)

APPEAL from the decision of the Court of First Instance of Cavite. Lucero, J.

The facts are stated in the opinion of the court.

David F. Barrera for the defendant and appellant.

Jose P. Santillan for the plaintiff and appellees.

BAUTISTA ANGELO, J.:

Dissatisfied with the decision of the Court of First Instance of Cavite ordering him to give a monthly allowance of P60.00 to plaintiffs beginning March 31, 1953, and to pay them attorney's fees in the amount of P150.00, defendant took the case directly to this court attributing five errors to the court below. This implies that the facts are not disputed.

The important facts which need to be considered in relation to the errors assigned appear well narrated in the decision of the court below which, for purposes of this appeal, are quoted hereunder:

"On November 19, 1937, plaintiff Salud R. Arca and defendant Alfredo Javier had their marriage solemnized by Judge Mariano Nable of the Municipal Court of Manila. At the time of their marriage, they had already begotten a son named Alfredo Javier, Junior, who was born on December 2, 1931. Sometime in 1938, defendant Alfredo Javier left for the United States on board a ship of the United States Navy, for it appears that he had joined the United States Navy since 1927, such that at the time of his marriage with plaintiff Salud R. Arca, defendant Alfredo Javier was already an enlisted man in the United States Navy. Because of defendant Alfredo Javier's departure for the United States in 1938, his wife Salud R. Arca, who is from (Maragondon), Cavite, chose to live with defendant's parents at Naic, Cavite. But for certain incompatibility of character (frictions having occurred between plaintiff Salud R. Arca's and defendant's folks) plaintiff Salud R. Arca had found it necessary to leave defendant's parents' abode and transfer her residence to (Maragondon), Cavite—her native place. Since then the relation between plaintiff Salud R. Arca and defendant Alfredo Javier became strained such that on August 13, 1940 defendant Alfredo Javier brought an action for divorce against Salud R. Arca before the Circuit Court of Mobile County, State of Alabama, USA, docketed as civil case No. 14313 of that court and marked as Exhibit 2(c) in this case. Having received a copy of the complaint for divorce on September 23, 1940, plaintiff Salud R. Arca—answering the complaint—alleged in her answer that she received copy of the complaint on September 23, 1940 although she was directed to file her answer thereto on or before September 13, 1940. In that answer she filed, plaintiff Salud R. Arca averred among other things that defendant Alfredo Javier was not a resident of Mobile County, State of Alabama, for the period of twelve months preceding the institution of the complaint, but that he was a resident of Naic, Cavite, Philippines. Another averment of interest, which is essential to relate here, is that under paragraph 5 of her answer to the complaint for divorce, Salud R. Arca alleged that it was not true that the cause of their separation was desertion on her part but that if defendant Alfredo Javier was in the United States at that time and she was not with him then it was because he was in active duty as an enlisted man of the United States Navy, as a consequence of which he had to leave for the United States without her. She further alleged that since his departure from the Philippines for the United States, he had always supported her and her co-plaintiff Alfredo Javier Junior through allotments made by the Navy Department of the United States Government. She denied, furthermore, the allegation that she had abandoned defendant's home at Naic, Cavite, and their separation was due to physical impossibility for they were separated by about 10,000 miles from each other. At this juncture, under the old Civil Code the wife is not bound to live with her husband if the latter has gone to ultramarine colonies. Plaintiff Salud R. Arca, in her answer to the complaint for divorce by defendant Alfredo Javier, prayed that the complaint for divorce be dismissed. However, notwithstanding Salud R. Arca's averments in her answer, contesting the jurisdiction of the Circuit Court of Mobile County, State of Alabama, to take

cognizance of the divorce proceeding filed by defendant Alfredo Javier, as shown by her answer marked Exhibit 2(d), nevertheless the Circuit Court of Mobile County rendered judgment decreeing dissolution of the marriage of Salud R. Arca and Alfredo Javier, and granting the latter a decree of divorce dated April 9, 1941, a certified copy of which is marked Exhibit 2(f). Thereupon, the evidence discloses that some time in 1946 defendant Alfredo Javier returned to the Philippines but went back to the United States.

"In July, 1941—that is after securing a divorce from plaintiff Salud R. Arca on April 9, 1941—defendant Alfredo Javier married Thelma Francis, an American citizen, and bought a house and lot at 248 Brooklyn, New York City. In 1949, Thelma Francis, defendant's American wife, obtained a divorce from him for reasons not disclosed by the evidence, and later on, having retired from the United States Navy, defendant Alfredo Javier returned to the Philippines, arriving here on February 13, 1950. After his arrival in the Philippines, armed with two decrees of divorce—one against his first wife Salud R. Arca and the other against him by his second wife Thelma Francis—issued by the Circuit Court of Mobile County, State of Alabama, USA, defendant Alfredo Javier married Maria Odvina before Judge Natividad Almada-Lopez of the Municipal Court of Manila on April 19, 1950, marked Exhibit 2(b).

"At the instance of plaintiff Salud R. Arca an information for bigamy was filed by the City Fiscal of Manila on July 25, 1950 against defendant Alfredo Javier with the Court of First Instance of Manila, docketed as Criminal Case No. 13310 and marked Exhibit 2(a). However, defendant Alfredo Javier was acquitted of the charge of bigamy in a decision rendered by the Court of First Instance of Manila through Judge Alejandro J. Panlilio, dated August 10, 1951, predicated on the proposition that the marriage of defendant Alfredo Javier with Maria Odvina was made in all good faith and in the honest belief that his marriage with plaintiff Salud R. Arca had been legally dissolved by the decree of divorce obtained by him from the Circuit Court of Mobile County, State of Alabama, USA which had the legal effect of dissolving the marital ties between defendant Alfredo Javier and plaintiff Salud R. Arca. At this juncture, again, it is this court's opinion that defendant Alfredo Javier's acquittal in that Criminal Case No. 13310 of the Court of First Instance of Manila by Judge Panlilio was due to the fact that the accused had no criminal intent in contracting a second or subsequent marriage while his first marriage was still subsisting."

Appellant was a native born citizen of the Philippines who, in 1937, married Salud R. Arca, another Filipino citizen. Before their marriage they had already a child, Alfredo Javier, Jr., who thereby became legitimated. In 1927 appellant enlisted in the U. S. Navy and in 1938 sailed for the United States aboard a navy ship in connection with his service leaving behind his wife and child, and on August 13, 1940, he filed an action for divorce in the Circuit Court of Mobile County, Alabama, U.S.A., alleging as ground abandonment by his wife. Having received a copy of the complaint, Salud R. Arca filed an answer alleging, among other things, that appellant was not a resident of Mobile County, but of Naic, Cavite, Philippines, and that it was not true that the cause of their separation was abandon-

ment on her part but that appellant was in the United States, without her, because he was then enlisted in the U.S. Navy. Nevertheless, the Circuit Court of Mobile County rendered judgment granting appellant a decree of divorce on April 9, 1941.

The issue now to be determined is: Does this decree have a valid effect in this jurisdiction?

The issue is not new. This court has had already occasion to pass upon questions of similar nature in a number of cases and its ruling has invariably been to deny validity to the decree. In essence, it was held that one of the essential conditions for the validity of a decree of divorce is that the court must have jurisdiction over the subject matter and in order that this may be acquired, plaintiff must be domiciled in good faith in the State in which it is granted (*Cousins Hix vs. Fluemer*, 55 Phil., 851, 856). Most recent of such cases is *Sikat vs. Cansen*, 67 Phil., 207, which involves a case of divorce also based on the ground of desertion. In that case, John Canson claimed not only that he had legal residence in the State of Nevada, where the action was brought, but he was an American citizen, although it was proven that his wife never accompanied him there but has always remained in the Philippines, and so it has been held that "it is not * * * the citizenship of the plaintiff for divorce which confers jurisdiction upon a court, but his legal residence within the State." The court further said: "And assuming that John Canson acquired legal residence in the State of Nevada through the approval of his citizenship papers, this would not confer jurisdiction on the Nevada court to grant divorce that would be valid in this jurisdiction, nor jurisdiction that could determine their matrimonial status, because the wife was still domiciled in the Philippines. The Nevada court never acquired jurisdiction over her person."

It is true that Salud R. Arca filed an answer in the divorce case instituted at the Mobile County in view of the summons served upon her in this jurisdiction, but this action cannot be interpreted as placing her under the jurisdiction of the court because its only purpose was to impugn the claim of appellant that his domicile or legal residence at that time was Mobile County, and to show that the ground of desertion imputed to her was baseless and false. Such answer should be considered as a special appearance the purpose of which is to impugn the jurisdiction of the court over the case.

In deciding the Canson case, this court did not overlook the other cases previously decided on the matter, but precisely took good note of them. Among the cases invoked are *Ramirez vs. Gmur*, 42 Phil., 855; *Cousins Hix vs. Fluemer*, 55 Phil., 851, and *Barretto Gonzales vs. Gonzales*, 58

Phil., 67. In the cases just mentioned, this court laid down the following doctrines:

"It is established by the great weight of authority that the court of a country in which neither of the spouses is domiciled and to which one or both of them may resort merely for the purpose of obtaining a divorce has no jurisdiction to determine their matrimonial status; and a divorce granted by such a court is not entitled to recognition elsewhere. (*See Note to Succession of Benton*, 59 L. R. A., 143.) The voluntary appearance of the defendant before such a tribunal does not invest the court with jurisdiction. (*Andrews vs. Andrews*, 188 U. S., 14; 47 L. ed., 366.)

"It follows that, to give a court jurisdiction on the ground of the plaintiff's residence in the State or country of the judicial forum, his residence must be *bona fide*. If a spouse leaves the family domicile and goes to another State for the sole purpose of obtaining a divorce, and with no intention of remaining, his residence there is not sufficient to confer jurisdiction on the courts of that State. This is especially true where the cause of divorce is one not recognized by the laws of the State of his own domicile. (14 Cyc. 817, 818.)" (*Ramirez vs. Gmur*, 42 Phil., 855.)

"But even if his residence had been taken up in good faith, and the court had acquired jurisdiction to take cognizance of the divorce suit, the decree issued in his favor is not binding upon the appellant; for the matrimonial domicile of the spouses being the City of Manila, and no new domicile having been acquired in West Virginia, the summons made by publication, she not having entered an appearance in the case, either personally or by counsel, did not confer jurisdiction upon said court over her person." (*Cousins Hix vs. Fluemer*, 55 Phil., 851.)

"At all times the matrimonial domicile of this couple has been within the Philippine Islands and the residence acquired in the State of Nevada by the husband for the purpose of securing a divorce was not a *bona fide* residence and did not confer jurisdiction upon the court of that State to dissolve the bonds of matrimony in which he had entered in 1919." (*Barretto Gonzales vs. Gonzales*, 58 Phil., 67.)

In the light of the foregoing authorities, it cannot therefore be said that the Mobile County Court of Alabama had acquired jurisdiction over the case for the simple reason that at the time it was filed appellant's legal residence was then in the Philippines. He could not have acquired legal residence or domicile at Mobile County when he moved to that place in 1938 because at that time he was still in the service of the U.S. Navy and merely rented a room where he used to stay during his occasional shore leave for shift duty. That he never intended to live there permanently is shown by the fact that after his marriage to Thelma Francis in 1941, he moved to New York where he bought a house and a lot, and after his divorce from Thelma in 1949 and his retirement from the U.S. Navy, he returned to the Philippines and married Maria Odvina of Naic, Cavite, where he lived ever since. It may therefore be said that appellant went to Mobile County, not with the intention of permanently residing there, or of considering that place as his permanent abode, but for the sole purpose of obtain-

ing divorce from his wife. Such residence is not sufficient to confer jurisdiction on the court.

It is claimed that the Canson case cannot be invoked as authority or precedent in the present case for the reason that the Haddeck case which was cited by the court in the course of the decision was reversed by the Supreme Court of the United States in the case of *Williams vs. North Carolina*, 317 U.S. 287. This claim is not quite correct, for the Haddeck case was merely cited as authority for the statement that a divorce case is not a proceeding *in rem*, and the reversal did not necessarily overrule the ruling laid down therein that before a court may acquire jurisdiction over a divorce case, it is necessary that plaintiff be domiciled in the State in which it is filed. (*Cousins Hix vs. Fluemer, supra.*) At any rate, the applicability of the ruling in the Canson case may be justified on another ground: The courts in the Philippines can grant divorce only on the ground of adultery on the part of the wife or concubinage on the part of the husband, and if the decree is predicated on another ground, that decree cannot be enforced in this jurisdiction. Said the Court in the Canson case:

"* * * In *Barretto Gonzales vs. Gonzales* (55 Phil., 67), we observed:

"* * * While the decisions of this court heretofore in refusing to recognize the validity of foreign divorce has usually been expressed in the negative and have been based upon lack of matrimonial domicile or fraud or collusion, we have not overlooked the provisions of the Civil Code now enforced in these Islands. Article 9 thereof reads as follows:

"The laws relating to family rights and duties, or to the status, condition, and legal capacity of persons, are binding upon Spaniards even though they reside in a foreign country."

"And Article 11, the last part of which reads:

"* * * prohibitive laws concerning persons, their acts and their property, and those intended to promote public order and good morals shall not be rendered without effect by any foreign laws or judgments or by anything done or any agreements entered into in a foreign country."

"It is therefore a serious question whether any foreign divorce, relating to citizens of the Philippine Islands, will be recognized in this jurisdiction, except it be for a cause, and under conditions for which the courts of the Philippine Islands would grant a divorce."

"The courts in the Philippines can grant a divorce only on the ground of 'adultery on the part of the wife or concubinage on the part of the husband' as provided for under section 1 of Act No. 2710. The divorce decree in question was granted on the ground of desertion, clearly not a cause for divorce under our laws. That our divorce law, Act No. 2710, is too strict or too liberal is not for this court to decide. (*Barretto Gonzales vs. Gonzales, supra.*) The allotment of powers between the different governmental agencies restricts the judiciary within the confines of interpretation, not of legislation. The legislative policy on the matter of divorce in this jurisdiction is clearly set forth in Act No. 2710 and has been upheld by this court (*Goitia vs. Campos Rueda*, 35 Phil., 252; *Garcia Valdez*

vs. Soteraña Tuason, 40 Phil., 943-952; *Ramirez vs. Gmur*, 42 Phil., 855; *Chereau vs. Fuentebella*, 43 Phil., 216; *Fernandez vs. De Castro* 48 Phil., 123; *Gorayeb vs. Hashim*, *supra*; *Francisco vs. Tayao*, 50 Phil., 42; *Alkuino Lim Pang vs. Uy Pian Ng Shun and Lim Tingco*, 52 Phil., 571; *Cousins Hix vs. Fluemer*, *supra*; and *Barretto Gonzales vs. Gonzales*, *supra*).

The above pronouncement is sound as it is in keeping with the well known principle of Private International Law which prohibits the extension of a foreign judgment, or the law affecting the same, if it is contrary to the law or fundamental policy of the State of the *forum*. (Minor, *Conflict of Laws*, pp. 8-14). It is also in keeping with our concept of moral values which has always looked upon marriage as an institution. And such concept has actually crystallized in a more tangible manner when in the new Civil Code our people, through Congress, decided to eliminate altogether our law relative to divorce. Because of such concept we cannot but react adversely to any attempt to extend here the effect of a decree which is not in consonance with our customs, morals, and traditions. (Article 11, old Civil Code; Articles 15 and 17, New Civil Code; *Gonzales vs. Gonzales*, 58 Phil., 67).

With regard to the plea of appellant that Salud R. Arca had accused him of the crime of bigamy and consequently she forfeited her right to support, and that her child Alfredo Javier, Jr. is not also entitled to support because he has already reached his age of majority, we do not need to consider it here, it appearing that these questions have already been passed upon in G. R. No. L-6706. These questions were resolved against the pretense of appellant.

Wherefore, the decision appealed from is affirmed, with costs.

Parás, C. J., Pablo, Bengzón, Padilla, Montemayor, A. Reyes, Jugo, Labrador, Concepción, and J. B. L., Reyes, JJ., concur.

Judgment affirmed.

[No. L-7524. July 31, 1954]

GASPAR M. LLAMAS, petitioner, *vs.* HONORABLE SEGUNDO MOSCOSO as Judge of the Court of First Instance of Leyte, RUFO RAGA, as Acting Provincial Sheriff of Leyte, and CIRIACO ENRIQUEZ, respondents.

1. INTESSTATE PROCEEDING; LEASE OF PART OF THE ESTATE; TERMINATION OF LEASE, NOT WITHIN JURISDICTION OF PROBATE COURT.—An order of the probate court which has the effect of depriving a lessee of part of the estate of the decedent under the lease without the lease having been terminated or

annulled in a separate civil case instituted for that purpose, is null and void. The contention that the lease must be deemed terminated by the probate court's order approving the project of preliminary partition which allocated the lot leased to an heir is without merit, where the lessee was not a party to that partition. The probate court cannot, without any legal ground and without proper proceedings for the purpose, annul the lease. The allegation that the lease has been breached and should therefore be declared terminated, is a question that must be ventilated in a separate civil action for that purpose, as the same is not within the competence of the court in the exercise of its probate jurisdiction.

2. PLEADING AND PRACTICE; ORIGINAL ACTION OF CERTIORARI IN SUPREME COURT; DEFENSE OF "RES ADJUDICATA" NOT SUSTAINED.—In an original action of certiorari in the Supreme Court, the defense of *res adjudicata* predicated on a decision of the Court of Appeals denying a petition for injunction to prevent a writ of execution issued by the probate court, from being carried out, cannot be sustained, where the said decision denied the petition for injunction because the writ of execution had already been carried out when the petition was filed, and the decision did not pass upon the legality of the writ of execution.

ORIGINAL ACTION in the Supreme Court. Certiorari with preliminary injunction.

The facts are stated in the opinion of the court.

Antonio Montilla and *Mateo Canonoy* for petitioner.

Olegario Lastrilla and *De la Cruz, Fernandez* and *Mate* for respondent *Ciriaco Enriquez*.

REYES, A., J.:

This is a petition for certiorari to annul an order for execution and subsequent processes for its implementation.

It appears that on February 1, 1948, the herein respondent *Ciriaco Enriquez*, in his capacity as judicial administrator of the estate of his deceased wife, *Manuela Dioso*, which was then the subject of an intestate proceeding in the Court of First Instance of *Leyte*, leased to the herein petitioner *Gaspar M. Llamas* two parcels of land known as Lots Nos. 56 and 57 of the Cadastral Survey of *Tacloban* and covered by Original Certificates of Title Nos. 381 and 445, respectively, of the land records of that province, issued in the name of the spouses. The lease had the approval of the court and was recorded in the Registry of Deeds. According to its terms, it was to run for a period of ten years from April 1, 1948, at a monthly rental of ₱300 and the lessee could construct on the leased premises such buildings and other improvements as he might deem proper, provided that they were to become the property of the lessor upon the expiration or earlier termination of the lease. The lessee was not an heir to

the estate in administration, though his wife Encarnacion Enriquez was, being one of the children of the deceased.

A few months after the lease was entered into, Ciriaco Enriquez, his co-administrator Panfilo Enriquez, and the rest of the heirs of the deceased submitted for the approval of the court a project of partial partition, allocating various portions of the estate to different heirs with the proviso "that the heirs shall continue occupying the premises of the estate they are presently using until the termination of these proceedings." Among the portions allocated were those covered by the lease, namely, lots No. 56 and No. 57 of the Tacloban Cadastre, the first of which was assigned to Ciriaco Enriquez and the second, to Encarnacion Enriquez, wife of the lessee. Acting on the petition, the court, under dated of July 19, 1948, handed down an order approving the partial partition and stating that it was "to become effective as of August 1, 1948, on which date the respective parties will take possession of the premises or estate ceded to them" with all the corresponding rights and privileges of ownership."

After the issuance of the above order Ciriaco Enriquez, in his capacity as administrator of the estate, filed a petition in the intestate proceedings asking for the rescission of the lease in question for various reasons, alleging, among other things, that by virtue of the said order he had become the owner of lot 56 and entitled to the possession thereof and that the lease had been breached by lessee's failure to pay rents. In a subsequent petition he also asked for a writ of preliminary injunction restraining the lessee from collecting rents from the occupants of the leased property and authorizing petitioner instead to collect those rents. But the court denied both motions, holding that the rescission of the lease should be the subject of a separate action by Ciriaco Enriquez in his own behalf and not as an administrator of the estate.

As a consequence of the above order, Ciriaco Enriquez filed an ordinary civil action against the lessee Gaspar M. Llamas praying that the lease in question be declared cancelled and terminated and Llamas ousted from the leased premises, alleging as a ground for his action that, as sole and absolute owner of lot 56 by virtue of the decree of partial partition plaintiff had the right to terminate the lease, or in the alternative, to receive the rents corresponding to said lot, but that defendant had failed to pay those rents and had also refused to vacate the premises. With this action still pending, Ciriaco Enriquez led a motion in the intestate proceeding calling attention to that part of the order approving the partial partition which says that "on August 1, 1948, the respective parties will

take possession of the premises or estate ceded to them with all the corresponding rights and privileges of ownership," and praying for the issuance of a writ of execution to enforce the said part of the order by commanding the sheriff to place movant in possession of lot 56 and ejecting therefrom Llamas and his wife. These two opposed the motion, calling attention to the existence of the lease in favor of Llamas and the pendency of the civil action for its cancellation, and, in effect, objecting to the jurisdiction of the probate court by alleging that the question of whether or not the order approving the partial partition had the effect of terminating the lease of lot 56 in favor of Llamas came within the competence of the court in the exercise of its ordinary jurisdiction as a Court of First Instance but was not cognizable by it as a probate court. Notwithstanding this objection, the court ordered the writ to issue, and in compliance therewith the sheriff placed Ciriaco Enriquez in possession of lot 56 and gave notice thereof to the tenants of the building which the lessee had constructed on said lot. An attempt was made to have the Court of Appeals enjoin the enforcement of the writ, but the petition for that purpose was denied by said court on the ground that the same was filed after what was sought to be prevented had already been totally accomplished.

On January 8, 1954, the court, upon complaint of Ciriaco Enriquez, issued an order warning Llamas and his wife and the occupants of the building in question not to interfere with complainant's possession of said building on pain of being punished for contempt, and in a later order dated January 16, 1954, the court further decreed that Llamas and his wife must immediately vacate the lot and building in favor of Ciriaco Enriquez, with warning that should the occupants of the building continue paying rentals to them, it would send them and the said occupants to jail for contempt of court.

The present petition asks for the annulment of the order for execution and the subsequent orders for its implementation on the grounds that all of the said orders were issued in excess of jurisdiction and with grave abuse of discretion.

After going over the record and hearing the parties in oral argument, we have come to the conclusion that the petition should be granted. It is obvious that the orders complained of have the effect of depriving the lessee of his rights under the lease without the lease having been terminated or annulled as the civil case instituted for that purpose was still pending in court. The contention that the lease on lot 56 must be deemed terminated by the order approving the project of preliminary partition

which allocated the said lot to Ciriaco Enriquez and authorized him to take possession thereof from August 1, 1948 "with all the corresponding rights and privileges of ownership," is without merit, for the lessee was not a party to that partition and the court cannot, without any legal ground and without proper proceedings for the purpose, annul the lease. The allegation that the lease has been breached and should therefore be declared terminated, is a question that must be ventilated in the pending civil action for that purpose as the same is not within the competence of the court in the exercise of its probate jurisdiction.

Likewise, the defense of *res adjudicata* predicated on the decision of the Court of Appeals denying a petition for injunction to prevent the writ of execution from being carried out, cannot be sustained. For it is obvious from the said decision that if the injunction was denied, it was because the writ of execution had already been carried out when the petition was filed. The decision did not pass upon the legality of the writ.

As an act done in excess of its jurisdiction as a probate court, the lower court's order for execution may be corrected by certiorari.

Wherefore, the petition for certiorari is granted and the orders complained of and the acts done thereunder are annulled, with costs against the respondent Ciriaco Enriquez.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, Labrador, Concepcion, and J. B. L. Reyes, JJ., concur.

Petition granted.

(No. L-7662. 31 July 1954)

MAXIMINO COMETA, petitioner, *vs.* WENCESLAO ANDANAR,
respondent

1. ADMINISTRATIVE LAW; PUBLIC OFFICERS; ELECTIVE OFFICES OF NEW POLITICAL DIVISION MAY BE FILLED EITHER BY ELECTION OR APPOINTMENT.—Upon the creation of a new political division, the elective officers thereof shall, unless otherwise provided, be chosen at the next regular election. Meanwhile, the President may, at his discretion, appoint to such elective offices suitable persons or call a special election. If he chooses to fill any of the positions by appointment, the appointee shall hold office until the next regular election, not temporarily or in an

acting capacity, but permanently until his successor is chosen at the next regular election.

2. *Id.*; *Id.*; MUNICIPAL MAYOR; APPOINTED MAYOR MAY BE REMOVED ONLY FOR CAUSE.—Where the President did not call for a special election but instead appointed petitioner mayor of the newly created municipality, the appointee can only be removed from office for cause as provided by law and in the manner prescribed therein. (*Lacson vs. Roque*, 49 Off. Gaz., 92; *Jover vs. Borra*, 49 Off. Gaz., 2765.)
3. *Id.*; *Id.*; REMOVAL OF MAYOR BY RESOLUTION OF MUNICIPAL COUNCIL, ILLEGAL; DIRECT REMOVAL OF MAYOR BY THE PEOPLE MAY BE DONE ONLY THROUGH EXERCISE OF SUFFRAGE AT PERIODIC ELECTIONS.—The municipal council cannot, by resolution, remove the municipal mayor from office. Even if the feeling of the inhabitants of the municipality be against an incumbent mayor, the President cannot remove him from office except for cause as provided by law and in the manner prescribed therein. It is only at the proper time, by the exercise of the citizen's right of suffrage at the periodic elections to be held, that the people may directly exercise its power of removal with or without cause.

ORIGINAL ACTION in the Supreme Court. Quo warranto.

The facts are stated in the opinion of the court.

R. Navarro and Paredes, San Diego & Paredes for the petitioner.

Reynaldo P. Honrado and Sisenando Villaluz for the respondent.

PADILLA, J.:

This is a petition for *quo warranto* to question the legality of the ouster of the petitioner from office as municipal mayor of Sapao, province of Surigao, and to test the validity of the designation and appointment of the respondent as acting mayor of the municipality.

On 1 October 1953 the President of the Philippines created the municipality of Sapao, Province of Surigao, pursuant to the provisions of section 68 of the Revised Administrative Code.¹ On the same day, the petitioner was appointed by the President mayor of the newly created municipality and qualified as such by taking the oath of office on 7 October 1953 and assumed all the duties and exercised the functions thereof. On or about 8 February 1954, the petitioner alleges, without legal and justifiable cause, not having been charged with any malfeasance in office to warrant his removal or suspension, he was removed from office by the designation and appointment of the respondent as acting mayor of the municipality. The letter of designation was signed by the

¹ Executive Order No. 623, series of 1953, 49 Off. Gaz., 4231.

Executive Secretary by authority of the President. The respondent acted and is still acting as mayor of the municipality, exercising the duties and functions of the office. The petitioner further alleges that he has requested the Executive Secretary to inform him of the cause of his removal from office, but that the inquiry has remained unanswered.

The respondent contends that appointments made under section 10, Rep. Act No. 180, are at the pleasure of the appointing power and temporary or discretionary in character and have no fixed term and are valid and effective only up to the time their successors are duly elected or appointed in accordance with law. Hence the petitioner is entitled to continue in office only until his successor is duly elected or appointed. In other words, the appointment of the petitioner being temporary in nature, he may be removed at pleasure. The contention is without merit. Section 10, Rep. Act No. 180, provides:

When a new political division is created the inhabitants of which are entitled to participate in the elections, the elective officers thereof shall, unless otherwise provided, be chosen at the next regular election. In the interim such offices shall, in the discretion of the President, be filled by appointment by him or by a special election which he may order.

The foregoing provisions mean that upon the creation of a new political division, the elective officers thereof shall, unless otherwise provided, be chosen at the next regular election. Meanwhile, the President may, at his discretion, appoint to such elective offices suitable persons or call a special election. If the President chooses to fill any of the positions by appointment, as he did in the case of petitioner, then the appointee shall hold office until the next regular election, not temporarily or in an acting capacity, but permanently until his successor is chosen at the next regular election. The municipality of Sapao was created on 1 October 1953 by executive order. Under section 7 of Rep. Act No. 180, as amended by Rep. Act No. 867, the next regular elections for provincial and municipal offices shall be held "on the second Tuesday of November, nineteen hundred and fifty-five * * *." The respondent not having been elected at the regular election he cannot be designated or appointed to succeed the petitioner, as the latter can only be removed from office for cause as provided by law and in the manner prescribed therein.²

The respondent also contends that the office of municipal mayor not having a fixed term of office, the petitioner's

² *Lacson vs. Roque*, 49 Off. Gaz., 93; *Jover vs. Borra*, 49 Off. Gaz., 2765.

continuance therein rests at the pleasure of the appointing power and may be removed even without cause. Again, this contention is not well taken. Section 7, Rep. Act No. 180, as amended by Rep. Act No. 867, provides that:

* * * The officials elected (at the regular elections for provincial, municipal and municipal district offices) shall assume office on the first day of January next following and shall hold such office for four years and until their successors shall have been duly elected and qualified.

The President not having called a special election but appointed the petitioner municipal mayor of Sapao, he may not be removed from office except for cause.³ There is nothing to show in the petition and the answer that petitioner has been removed for cause as provided by law. As a matter of fact, the letter of the petitioner to the Executive Secretary asking him for the cause or ground for his removal has remained unanswered. The designation of the respondent to act as mayor of Sapao in place of the petitioner is a removal of the latter from office.

The respondent further contends that on 1 February 1954 the petitioner was formally ousted and removed from office by unanimous resolution of the municipal council of Sapao and that his appointment as mayor is in response to the general demand of the inhabitants of the new political division and has the support of all the officials, barrio lieutenants, heads of families and residents of the municipality as expressed in a petition dated 1 April 1954 submitted by the inhabitants of the municipality to the President. The municipal council cannot by resolution remove the municipal mayor from office. And even if the feeling of the inhabitants of a municipality be against an incumbent mayor, the President cannot, as already stated, remove a municipal mayor from office except for cause as provided by law and in the manner prescribed therein. It is only at the proper time, by the exercise of the citizen's right of suffrage at the periodic elections to be held, that the people may directly exercise its power of removal with or without cause.

The respondent finally alleges that the petitioner has lost his right to the office upon voluntary surrender and relinquishment of his office in favor of the respondent. There is no evidence to that effect. The respondent has usurped and unlawfully held or exercised the office of municipal mayor of Sapao to the exclusion of the petitioner.

³ Lacson vs. Roque, *supra*; Jover vs. Borra, *supra*.

The petitioner is entitled to the office now illegally usurped or exercised by the respondent.

Writ prayed for is granted, without costs.

Parás, C. J., Pablo, Bengzon, Montemayor, A. Reyes, Jugo, Bautista Angelo, Labrador, Concepcion and J. B. L., Reyes, J. B. L. JJ., concur.

Writ granted.

DECISION OF THE ELECTORAL TRIBUNAL OF THE HOUSE OF REPRESENTATIVES

[ETHR No. 58. March 6, 1953]

SOFRONIO T. ESPAÑOLA, protestant, vs. GAUDENCIO E.
ABORDO, protestee

1. ELECTION PROTESTS; ANNULMENT OF ELECTION, WHEN PROPER.—
“The power to avoid or annul an election should be exercised with the greatest care and circumspection and only in extreme cases of fraud under circumstances which demonstrate beyond doubt and to the fullest degree a fundamental and wanton disregard of the law, sufficient in extent to change the result, and which is so persistent and so grave that it is impossible to distinguish the legal from the illegal votes, or to arrive at any certain result whatsoever.”
2. ID.; ANNULMENT OF ELECTION, DENIED; EXTENSION OF VOTING TIME TO WEE HOURS OF THE MORNING.—The protestant asked for the annulment of the election in a precinct on the alleged ground that, while the voting started on the hour prescribed by law on election day, it was unreasonably and illegally extended to the wee hours of the morning. This allegation has for its basis the minutes of voting which was presented as evidence to support the said allegation. This precinct was located on a remote and tiny island supposed to be usually inaccessible, and from this circumstance it is alleged that there were opportunities and probabilities for the commission of fraud. The first evidence presented is totally uncorroborated. There is no evidence *aliunde* presented to prove any fraudulent act in connection with this extension of voting time. *Held*: Section 130 of the Revised Election Code expressly provides for such extension for the purpose therein stated so that even assuming that protestant's contention is true, the presumption is that the provision of the law was followed by the election officials. The allegation of probabilities for the commission of fraud is only a conjecture.
3. ID.; BALLOTS WRITTEN BY THE SAME HAND.—Two or more ballots written by the same hand should be rejected.
4. ID.; BALLOT OF PERSON NOT IN THE REGISTRY LIST.—A ballot prepared and admitted by one whose name was not contained in the registry list of voters should be rejected.
5. ID.; WHERE CHRISTIAN NAME OF A CANDIDATE AND SURNAME OF HIS OPPONENT ARE THE SAME.—Where the voter votes “Simeon Española” for representative, and one of the candidates for said position is Simeon Capule, candidate Sofronio Española cannot claim this vote.
6. ID.; WHEN THE INSPECTORS' COUNT SHOULD PREVAIL OVER THE BALLOTS THEMSELVES.—The general rule is that where after the election the ballots cast therein are shown not to have been kept or preserved in accordance with law or that the ballot box has been tampered with to such an extent as to affect the contents thereof, the election returns as recorded by the election inspectors should prevail over the ballots as evidence of the true result of the election. But this general rule does not apply where reconstruction of the original contents is yet possible,

or where the ballots have not been disfigured at all and there is no doubt as to the presence of the very ballots cast on the day of the election, or where even the election returns made by the inspectors are not totally free from taints of irregularities and, as such, in no case can they be made to prevail over the evidentiary value of the ballots before the Tribunal.

7. *Id.*; *MARKED BALLOTS*.—Although a ballot contains on lines 2 and 8 for senators the names of non-candidates, that does not constitute marks on the ballot, where the name of a candidate for representative appears voted on the proper space.
8. *Id.*; *Id.*—Where a ballot is objected to as a marked ballot for containing the name of a non-candidate on the space for President, and where the protestant's name appears correctly voted thereon, the objection is untenable under section 149, paragraph 13, of the Revised Election Code.
9. *Id.*; *Id.*—A ballot is objected to as marked for containing the name "Elpidio Quirino" in the space for party voting. The candidates are individually voted for and the name of the protestant appears in the proper space. *Held*: The ballot is admitted.
10. *Id.*; *Id.*—Six ballots are objected to as marked for containing (all on line 2 for senators) the names Evangelista, Evengelista, Paula, Star, Enia and Enia T., respectively. The name of protestee appears written on the proper space on each of these ballots. *Held*: All the ballots are admitted under paragraph 13, section 149, Revised Election Code.
11. *Id.*; *Id.*—Several ballots were objected to as marked for containing on some of the lines for councilors names of places or words which are not names of persons. The protestant contends that the words written can not be the object of a vote or are immaterial expressions on the ballots. The name of the protestee however appears on the proper spaces on these ballots. *Held*: They are admitted as valid votes for protestee. Ballots of the same nature for protestant have also been admitted.
12. *Id.*; *Id.*—Several ballots are objected to as marked for containing in some spaces for senators names of non-candidates. Protestant is properly voted for. *Held*: The writer of the decision is of the opinion that those ballots should be admitted for the protestant, to be consistent with the ruling on similar cases. The majority of the Tribunal, however, reject these ballots.
13. *Id.*; *Id.*—Ballots signed by voters to whom they were issued are illegal and should be rejected (*Kempis vs. Bautista*, 46 Off. Gaz., supp. No. 1, p. 229).
14. *Id.*; *Id.*—Ballots with their coupons bearing common fingerprints on them should be rejected, but the petition for annulment of the election in the corresponding precinct should be denied.
15. *Id.*; *Id.*—A ballot containing a letter before the word Liberal in the space for party voting, where the alleged mark thereon is in reality an attempt of the voter to start the first letter of the word "Liberal" which he discontinued and crossed out before finally writing the present word (Liberal) appearing on the ballot, should be admitted.
16. *Id.*; *Id.*—A ballot is objected to as marked for containing in line 3 for senators the syllables "ulo sugbo." The words alleged may have been syllables of words which the voter did

- not choose to continue or may have been nicknames of persons voted as candidates. The name of the protestant appears on the proper space for party voting. *Held*: Those syllables do not constitute a mark on the ballot. (Par. 18, sec. 148, Rev. Elect. Code; *Villavert vs. Fornier*, L-3050, 1949).
17. *Id.*; *Id.*—Ballots objected to as marked for containing words written in the local dialect on some of the spaces provided for individual candidates, which are not indecent, immoral, insulting or derogatory in character, are admitted, considering the general rule in favor of an interpretation which would give due course to the unmistakable will of the voter (*Villavert vs. Fornier*, L-3050, October 17, 1949).
18. *Id.*; *Id.*—Ballots objected to as marked, allegedly for containing nicknames of certain candidates voted for senators, where protestant is correctly voted, should be admitted (par. 9, sec. 149, Rev. Elect. Code).
19. *Id.*; *Id.*—The name of a non-candidate for representative written on a space for senators does not nullify the vote thereon for the protestee (Rev. Elect. Code, sec. 149).
20. *Id.*; *Id.*—Objection to a ballot as marked for containing middle names or initials between the Christian and surnames of the candidates voted for, is devoid of merit (par. 6, sec. 149, Rev. Elect. Code).
21. *Id.*; *Id.*—A ballot is objected to as marked for containing the word "Liberal" on line 1 for senators. *Held*: The objection is without merit and the ballot is admitted (*Confesor vs. Luterio*, ETHR No. 15; *Viola vs. Atienza*, ETHR No. 61).
22. *Id.*; *Id.*—A ballot is from the box for valid ballots. It is claimed by the protestee as a valid vote for him because opposite the printed title of office (representative) in the column of the Nacionalista candidates appear the name "Abordo." *Held*: The intention of the voter to vote for protestee is clearly manifested in this ballot and it is therefore admitted. (*Fernandez vs. Baes*, ETHR Case No. 23; *Ombra vs. Rasul*, ETHR Case No. 38.)
23. *Id.*; *Id.*—A ballot is objected to as marked for containing the word "only" in parenthesis, after the words "Liberal Party" on the space for party voting. *Held*: This circumstance does not constitute a mark on the ballot. It simply means that the voter voted for the Liberal Party candidates only. The ballot is admitted.
24. *Id.*; *STRAY BALLOTS.*—A ballot is objected to as stray for protestee because the word "Nacionalista", the only one appearing on the ballot, appears on line 1 for senators. *Held*: The objection is meritorious and the ballot is rejected. (*Viola vs. Atienza*, ETHR No. 61; *Fernandez vs. Baes*, ETHR No. 23, p. 8; sec. 149, par. 19, Rev. Elect. Code).
25. *Id.*; "IEM SONANS."—The word "Victory" written in tiny letters before the word "Liberal" in the space for party voting, or the letters "F" and "E" after the word "Liberal" on the same space, do not constitute marks for identification.
26. *Id.*; *Id.*—The word "Varla" in the space for party voting is not *idem sonans* to Nacionalista. The word "Nacionalistas" written thereon by a voter evidently versed in the calligraphic art is not *idem sonans* to Nacionalista. But the words "Nanculata" "Nacional", "Nacionalitis", "Yaio nalista", "Nacionalista Narinyl", "Nacionalized", "nacionmita", "Nea Anilita", "nauncalula", "Narionalula", "Naclasta", "Nacientesk", "Naci

Alsita", or "Nagiourarta" are *idem sonans* to Nacionalista, as "Labral", "Libel", "Lavaral" or "Lavral" is *idem sonans* to Liberal.

27. ID.; ID.—The name "Gangdencio" written on a ballot is *idem sonans* to Gaudencio, as well as "Lasda" to Legarda, where there are candidates with these names.

28. ID.; PARTY VOTING.—A ballot is being claimed by protestant from among those unadjudicated ballots found in the white box for containing in the space for party voting "Quirino L. Party" notwithstanding the fact that the words "Straight Quirino Wing" appear diagonally across the ballot from the space for president downward to the last space for senators. In the space for President, however, "E. Quirino" was voted for. *Held:* This annuls the block-vote and cannot be counted for the protestant. This ballot is rejected.

29. ID.; ID.—Two ballots are being claimed by protestee from among those not adjudicated to anyone in the valid box for containing in the spaces for senators the sentence, "I vote for the candidate of the Nacionalista Party", the only ones appearing on these ballots. Both of these were prepared by voters with considerable degree of education, taking into account the quality of penmanship appearing on them. As a matter of fact, the very sentence written denotes that the voters are conversant with the English language. It shows sufficient educational attainment. *Held:* The best that can be given to what is written on these ballots shows the intent to vote for the senators only of the Nacionalista Party for which protestee was not a candidate. These ballots are, therefore, rejected (sec. 149, par. 19, Rev. Elect. Code).

30. ID.; ID.—A ballot is from the valid box and is claimed by protestant as a valid vote for him for containing in the space for party voting the words "Liberal Party" with a capital letter "A" separated by two asterisks immediately after the last word. *Held:* The capital letter "A" indicates the will of the voter to vote for the Avelino Wing of the Liberal Party or makes the intention of this voter very doubtful. In coming to this conclusion, the Tribunal has been guided by the circumstance that in this precinct the predominant votes were cast for the Avelino Wing of the Liberal Party. The ballot is rejected.

31. ID.; ID.—A ballot, from the valid box, is claimed by the protestee as a valid vote for him, for containing the word Nacionalista immediately below the printed title "Nacionalista Party" in the printed column of official candidates of that party. *Held:* Admitted.

32. ID.; REGISTRY LIST OF VOTERS; VARIATION BETWEEN NAMES THEREIN AND THE SIGNATURE OF WOMEN VOTERS WHO IN SIGNING USED THE SURNAMES OF THEIR HUSBANDS.—Where the variations noticed between the signature in the column of the registry list of voters where the voters signed for the receipt of the ballots issued to them on the day of the election, and the names appearing in the list made by the board of election inspectors, but where the variations refer only to women voters who, in signing their names used the family names of their husbands instead of their maiden names, the presumption of law in favor of validity of the ballots is not overcome.

33. ID.; ID.; ALLEGED VOTING BY ABSENTEE VOTERS.—The mere fact that in Puerto Princesa there appear voters with the same name as those in Agutaya, even assuming that the voters in

the former place are also from Agutaya, alone does not preclude the possibility of the existence of identical names of persons from an identical place. The allegation and evidence presented that the ballots involved were prepared by absentee voters cannot prevail therefore over the legal presumption in favor of the validity of those ballots.

34. *Id.*; CROSSING OUT SURNAME WRITTEN ON BALLOT.—There is a path of light pencil showing across the surname of a candidate written on the ballot, but his Christian name remains in the proper space. *Held*: The ballot is valid as a vote for said candidate (Rev. Elect. Code, sec. 149).
35. *Id.*; SPOILED BALLOT; VALID BALLOT FOUND IN BOX FOR SPOILED BALLOTS.—A ballot is claimed by the protestant from the box for spoiled ballots. The evidence on hand shows that this ballot though found in the red box is in fact not spoiled. According to the minutes of voting for this precinct, there were 199 ballots used by 195 voters showing that four extra ballots were used. According to the CE Form 3 and the registry list of voters for the precinct, 4 ballots were spoiled and these bear coupon Nos. 1601, 1621, 1682 and 1709, all found in the red box when opened for revision with their respective coupons undetached and bearing the endorsement spoiled on their backs. These tally with the number of ballots used and the number of voters who voted showing that there were 4 ballots spoiled in this precinct. *Held*: Since these are the only spoiled ballots in this precinct and the ballot in dispute shows a condition of validity on its fact, it is clear that it is not spoiled ballot.
36. *Id.*; *Id.*; *Id.*—In the red box a ballot is found where the word "Liberal" in the space for party voting. The protestant claims this ballot as valid for him. In the precinct to which the red box pertained, not a single ballot was spoiled. The minutes of voting shows that 67 ballots were used by 67 voters. The revisors' report however, shows that only 66 ballots were contained in the white box when it was opened for revision. *Held*: Clearly one ballot was misplaced, and it is admitted as a valid vote for protestant.
37. *Id.*; *Id.*; *Id.*—Twelve ballots are claimed by protestee because, according to him, he is properly voted for on all of them. These are, however, from the red box and, there was no proof to show that the ballots were in fact not spoiled. *Held*: The presumption that ballots in the red box are deemed spoiled should prevail.
38. *Id.*; BALLOTS TAMPERED WITH, ACCORDING TO NBI EXPERT.—Where the evidence on hand as shown by the findings of the NBI fingerprint expert is conclusive that the ballots in a precinct were tampered with on the very day of the election during the process of voting and not only thereafter, the election returns in that precinct should not be made to prevail over the ballots themselves.
39. *Id.*; BALLOT EMITTED BY ONE NOT IN THE REGISTRY LIST OF VOTERS.—The ballot of a voter registered four weeks after the last day of registration is illegal and should be rejected (*Reyes vs. Biteng*, 57 Phil., 140).
40. *Id.*; OBJECTIONS NOT CONTAINED IN PROTESTANT'S MEMORANDUM OR IN TRANSCRIPT, DEEMED WAIVED.—The objection with respect to 11 ballots are not found in protestant's memorandum nor is there any mention by reference to the transcript. *Held*: This omission is deemed an implied waiver, and the 11 ballots are therefore admitted.

41. ID.; WHERE FINGERPRINTS ON DETACHABLE COUPONS ARE NOT IDENTICAL TO THOSE OF VOTER'S IN THE REGISTRY LIST.—Ballots where the fingerprints appearing on their detachable coupons are not identical to those of the voters in the list to whom the ballots were issued, should be rejected.
42. ID.; RESIDENCE QUALIFICATION OF VOTER.—The residence qualification of a voter is determined as of the day of election and not on the day of his registration. The applicant may rightly place on his voter's affidavit his last legal residence prior to his transfer to the municipality in which he offers to register. Furthermore, in an election contest proceeding, the registry list, as finally corrected, is conclusive in regard to the question as to who has the right to vote in an election (sec. 176-f, Rev. Elect. Code).

ELECTION PROTEST in the Electoral Tribunal of the House of Representatives.

The facts are stated in the opinion of the Tribunal.

Jose Rodriguez for the protestant.

Jose W. Diokno for the protestee.

SORIANO, M.:

In the general elections held on November 8, 1949, the protestant and the protestee were two of the three candidates for the position of Representative for the lone district of Palawan. On December 12, 1949, after all the returns of the election had been received, the provincial board of canvassers proclaimed that the protestee had been elected to said position, he having received a total of 8,255 votes as against the protestant who received a total of 8,165 votes, or a plurality of 87 votes in favor of the protestee.

Alleging, among other things, that frauds, irregularities and other violations of law had been committed in 24 designated precincts of specified municipalities, the protestant filed a motion of protest on December 24, 1949, and prayed, among other things, that after examination and revision of the corresponding ballots and other election documents presented as evidence, he be declared the duly elected Representative for the lone district of Palawan during the elections aforementioned. In answer, the protestee denied the allegations of the protestant, questioned the citizenship qualification of the protestant, and filed a counter-protest alleging that frauds, irregularities and illegalities had been perpetrated in 43 precincts of designated municipalities, and that had it not been for these he would have been elected to the office in question with a much larger plurality.

Finally, however, only 20 protested and 9 counter-protested precincts were completely revised. The parties waived their protest and counter-protest, respectively, as to the remaining precincts specified in their pleadings.

The counsels of both parties, with the approval of this Tribunal, stipulated on a pre-trial on May 28, 1951, with the view of facilitating a more expeditious termination of the case. The respective attorneys re-examined all the ballots in the protested and counter-protested precincts, re-stated their respective objections and claims and formally stipulated on new summaries of uncontested, objected and claimed ballots.

At the trial the protestee did not present any evidence to substantiate his allegation relative to the citizenship qualification of the protestant, in effect waiving this as a ground of his counter-protest. The decision, therefore, hinges only on the appreciation of the evidence offered in support of the allegations of both parties with respect to the frauds, irregularities and illegalities supposed to have been committed during the election in question in the precincts protested and counter-protested.

Despite the contention of both parties and their arguments with respect to frauds and irregularities committed in certain precincts, the election was not annuled in any of the contested precincts for in the course of the trial the Tribunal reached the opinion that despite the number of irregularities and discrepancies found to have been actually committed, the individual ballots questioned in each precinct could be definitely identified, and those tainted with illegalities or wrongly appreciated could be separated from those that were in fact legal and correctly appreciated. Neither would the outcome of this case have been affected had any annulment of election been resorted to with respect to any of the precincts for which such action was prayed by the parties. The Tribunal maintains that "the power to avoid or annul an election should be exercised with the greatest care and circumspection and only in extreme cases of fraud under circumstances which demonstrate beyond doubt and to the fullest degree a fundamental and wanton disregard of the law, sufficient in extent to change the result, and which is so persistent and so grave that it is impossible to distinguish the legal from the illegal votes, or to arrive at any certain result whatsoever" [*Ombra vs. Rasul* (1951), ETHR Case No. 38; *Tolentino vs. Serrano* (1949) ETHR Case No. 2; *Roque vs. Lava* (1948), ETHR Case No. 20; *Buyson vs. Yuson* (1949), ETHR Case No. 21; and also *Laurel on Elections* (1940), pages 301 to 304].

Since the outcome of the case depended on the appreciation of the allegations relative to each ballot questioned, the Tribunal exercised great care in the examination of every single one of them and spared no effort and time in the meticulous scrutiny of every detail pertaining to the objections on each ballot. To insure that the appre-

ciation of questioned ballots will be accurate and fair to both parties, this Tribunal, in a particularly controversial precinct, even employed the services of an expert of the National Bureau of Investigation to bring to light facts that would be needed for its appreciation of the contentions of both parties.

As finally heard, 29 precincts are involved in this contest. For convenience in recording, the ballot exhibits presented by the protestant (Española) have been identified with a prefix letter "E" before the exhibit number; those by the protestee (Abordo), by a prefix letter "A" before the exhibit number. We shall rule on these ballots in the order in which they were taken up during the pre-trial and as contained in the memoranda submitted by the parties.

Agutaya—Precinct 1

At the pre-trial, the protestant objected to 47 of 111 ballots for the protestee. The latter in turn objected to 1 of the 19 ballots for the former. The protestee claimed an additional two ballots, marked Exhibits A-3 and A-4, from the box for valid votes.

Exhibits E-31 and E-32. These ballots are objected to as written by the same hand. We have examined both of them and have found that the objection is not well taken. The ballots are therefore admitted and counted for the protestee.

Exhibits E-33 and E-34. The objection to these two ballots is that they were prepared by the same hand. We likewise find this objection to be not well taken. Both ballots are admitted.

Exhibits E-4, E-9 and E-12. These ballots are admitted. Examination of these ballots does not sustain the objection that they were written by the same hand.

Exhibits E-25 and E-26. The objection to these two ballots as written by the same hand is well taken. Both are therefore rejected.

Exhibits E-11 and E-30. Both are objected to as prepared by the same hand. After examination of the ballots we have found that the objection is without basis. The ballots are admitted.

Exhibits E-18 and E-20. These ballots are objected to as prepared by the same hand. We have found that they are in distinct handwriting. The ballots are admitted.

Exhibits E-8, E-24, E-27, E-28, and E-29 are 5 ballots. We have examined these ballots carefully and have found that Exhibits E-24, E-28 and E-29 were prepared by different hands. They are therefore admitted. The other two, Exhibits E-8 and E-27, are found to be prepared by the same hand and are hereby rejected.

Exhibits E-10, E-23, E-45, E-14, E-36, E-46, E-16, E-38, E-47, E-17, E-39, E-49, E-19, E-42, E-50, E-21, E-43, E-51, E-22, E-44, E-53 and E-54 are 22 ballots. These ballots were originally objected to as illegal, allegedly for having been prepared by persons who did not possess the age qualification required of them by law or on other grounds of incapacity of the voters. The protestant has, however, withdrawn his objections to them in his final memorandum. All the above ballots are therefore admitted as votes for the protestee.

Exhibits E-35. This ballot is objected to as illegal allegedly for having been prepared and emitted by one whose name was not contained in the registry list of voters for this precinct. This fact is admitted by the protestee himself in his memorandum and by the board of election inspectors in their minutes of proceedings made on the day of the election alleging therein an honest mistake on their part. The Tribunal is of the opinion that the objection is well taken. The ballot is therefore rejected.

Exhibits E-37, E-40, and E-48. The objection to these ballots is based on the ground that they were prepared by persons other than those whose names appear in the registry list. We have thoroughly looked into the evidence to substantiate this claim but found same to be unsatisfactory. Ballots admitted.

Exhibits E-41. The objection to this ballot has been withdrawn. Admitted.

Exhibits E-52. Objected to as stray. The only word written is "Nacionalista" and is not in the proper space for party voting. The ballot is rejected in accordance with our previous rulings on ballots of similar nature (*Viola vs. Atienza*, ETHR El. Case No. 60).

Exhibit E-67. Objection has been withdrawn. Ballot admitted.

Exhibit A-1. In this ballot the name written in the space for representative is "Simeon Española". The board of election inspectors and later the Tribunal's revisors adjudicated this ballot as valid vote for the protestant under paragraph 1 of section 149 of the Revised Election Code, considering that candidate Capule, also for this position, bears the Christian name "Simeon". The protestee argues that this ballot does not sufficiently identify protestant as voted for the position and contended that above rule for the appreciation of ballots is not applicable.

The objection is well taken. The pertinent portion of said section provides:

"* * *; but when the word written in the ballot is at the same time the Christian name of a candidate and the

surname of this opponent, the vote shall be counted in favor of the latter."

The ruling of the Supreme Court in a case involving the same question is exactly in point and we reiterate the same doctrine in the case at bar.

"Note that the last clause of the same quoted rule refers to one word which is at the same time the christian name of the candidate and the surname of his opponent, in which case the vote shall be counted in favor of the candidate whose surname corresponds to the word in question. For instance, let us suppose that the names of the candidates for the same office are Luis Francisco and Francisco Hernandez. Should the voter write only the word 'Francisco' the rule in question says that it should be counted in favor of Luis Francisco and not in that of Francisco Hernandez. That rule has no application to the case at hand, wherein the voter used two words, one corresponding to the christian name of one candidate and the other to the surname of his opponent. In such a case the vote is invalid for either candidate because there is no way of determining the real intention of the voter". (*Corpus vs. Ibay*, G. R. No. L-2305, July 8, 1949.)

Ballot Exhibit A-1 is therefore rejected.

Exhibit A-3. This is the ballot marked "excess" by the board of election inspectors in its proceedings on the day of the election pursuant to section 145 of the Revised Election Code.

The real excess ballot having been identified as Exhibit E-35 and the Tribunal having rejected same, Exhibit A-3 is therefore admitted as a valid vote for protestee.

Exhibit A-4. On this ballot the only word written is "Nacionalista" and appears on the space reserved for the thumbmark. The claim is without merit and the ballot rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	18	Uncontested	64
Admitted	0	Admitted	42
Total	18	Total	106

AGUTAYA—Precinct 2

The election result in this precinct has been the object of charges and counter-charges of fraud by both parties during the hearing. In fairness and justice to the herein contestants, we shall state briefly the facts as adduced from the evidence on record which led to our ruling upholding the returns of election in this precinct and completely disregarding the revision made as a consequence of this contest.

According to the minutes of voting for this precinct, a total of 224 ballots were found in the box for valid

ballots when opened for counting on the day of the election. Of this total, the protestee was credited with 162 votes as against protestant's 53 votes. The third candidate, Simeon Capule, received 1 vote. There is, therefore, a total adjudication of 216 votes to all the three candidates. Said minutes of voting states further that no ballot was rejected or found stray for any candidate and that none was invalidated in the course of the appreciation made by the inspectors on the day of the election. Offhand, we can see a discrepancy of 8 ballots which remain unaccounted for.

When this same white box (box for valid ballots) was opened for revision by the Tribunal's revisors, it was found to contain a total of 228 ballots; no longer 224 as found by the election inspectors on the day of the election.

The Tribunal allowed the protestee to conduct a matching test of the ballots in the white box with the detachable coupons in the red box. This was done under the direct supervision of the Tribunal's representative.

As a result of the matchings thus made, it was shown that a total of 25 detachable coupons in the red box were left unmatched. From the white box, a total of 29 ballots do not bear matching coupons in the red box. Moreover, while it is true that the 29 ballots (marked Exhibits A-1 to A-29) were expressly printed for use in this municipality and appeared to have been received by the municipal treasurer for use in this election, the evidence on record shows that this group of ballots does not form part of the ballots actually distributed for use in this precinct. This fact is shown by the official receipt of ballots from the treasurer signed by the election inspectors for this precinct wherein the job and type form number of ballots issued for use were recorded. The 29 ballots without matching coupons appear to bear different job and type form number from those in said receipt.

In view of the foregoing, it is clear in our mind and the conclusion inevitable that 25 ballots which were originally contained in the white box have been clandestinely extracted therefrom and in their stead 29 ballots not originally contained in said box have been surreptitiously inserted. There is no doubt therefore in our mind that the contents of the ballot box in this precinct had been tampered with to such an extent that the ballots now found therein have lost their character as primary evidence.

"Although the general rule is that ballots themselves are the best evidence of the number of votes cast and for whom cast, yet this rule can have no application to the case when the ballots have been tampered with after they were deposited in the ballot box. In such a case, the value of the ballot as evidence is almost totally destroyed and the return made by the officers of election

presiding at the poll will become better evidence than the ballots." (McCrary on Election, 4th Ed., 348.)

"When the ballots lost their probative value because the ballot box has been tampered with and the ballots altered, the counting made by the board of election inspectors is the best evidence of the result of election * * *." (Dayrit vs. San Agustin, 40 Phil., 782.)

And in the case of Valenzuela vs. Carlos, 42 Phil., 455, 456, the Honorable Supreme Court wisely stated thus:

"It is well settled as a legal proposition that where the evidence shows that the ballot boxes have been violated and their contents changed, the original count must prevail * * *."

Conformably to above principle of law, we hereby declare the ballots which were the object of the revision conducted by this Tribunal's revisors devoid of any probative value and give full force and effect to the returns of election in this precinct made by the board of election inspectors on the day of election.

Consequently, the votes obtained by the parties in this precinct are as recorded in the returns of election which are as follows:

Abordo	162
Española	53

AGUTAYA—Precinct 3

Each party objected to all the ballot cast in favor of the other during the revision by the Tribunal's revisors. Protestee and protestant claimed 8 and 2 more, respectively, from among those unadjudicated to any candidate.

During the pre-trial, the protestee maintained his objections to all 80 ballots for the protestant but withdrew his claim to 5 out of the 8 ballots originally claimed by him, leaving only 3, marked Exhibits A-81, A-82 and A-83. The protestant on the other hand waived his objection to 94 ballots, leaving a total of only 66 ballots of protestee objected to. The protestant also waived his claim to two ballots from the unadjudicated ballots.

The protestee asked this Tribunal not to give credence to the ballots which were the object of revision made by this Tribunal's revisors in this precinct and maintained that the returns of election made by the board of inspectors should instead be made to prevail as the evidence of the number of votes cast for the parties. The Tribunal has however denied this. In fairness to him, we shall state our reasons for this denial after our appreciation of protestant's evidence with respect to this precinct which we shall now proceed to consider.

Exhibit E-1. On this ballot the only words appearing are "Liberal" and "Abordo" in the spaces for party voting and representative respectively. The protestant claims that the two words were written in different hands. We

have found the contention to be untenable. This ballot is admitted as a vote for the protestee. (Sec. 149, par. 20, Revised Election Code.)

Exhibit E-149. The objection having been withdrawn by the protestant in his memorandum, this ballot is therefore admitted.

Exhibits E-2 and E-3. These ballots are objected to as marked for containing on lines 2 and 8 for senators the names of F. Abordo and Jose R. Adion, respectively. It is averred that these non-candidates' name constitute marks on the ballots. The protestee appears voted on the proper space in both instances. Both ballots are admitted under section 149, paragraph 13, Revised Election Code.

Exhibit E-48. The objection to this ballot having been withdrawn in the protestants memorandum, same is admitted.

Exhibits E-28, E-62, E-116, E-64 and E-11. These 5 ballots are objected to as prepared by the same hand. We have looked into each of these carefully and are convinced that with the exception of ballot E-11, all of them were written by one person. Excluding the last named ballot, they are therefore rejected. Exhibit E-11 is admitted.

Exhibits E-10, E-60 and E-59. All these ballots are admitted for it is apparent that each of them was prepared by a different voter.

Exhibits E-65 and E-124. These ballots were not written by the same hand as contended. Ballots admitted.

Exhibits E-37 and E-121. Objected to on the same ground stated above. The objection is well taken. Ballots rejected.

Exhibits E-110 and E-160. These ballots are admitted since they have been found to be not prepared by the same hand.

Exhibits E-61 and E-86. Admitted. The ballots were written by distinct hands.

Exhibits E-83 and E-123. These ballots were written by different hands. Both are therefore admitted.

Exhibits E-79, E-125, E-49 and E-85. These are objected to as prepared by the same person. Protestant's contention is well taken, except with respect to Exhibit E-49 which was written by a different hand. The last named ballot is therefore admitted; the other three rejected.

Exhibits E-17 and E-18. The objection that these ballots were written by the same hand is without merit. The ballots are therefore admitted.

Exhibits E-13, E-15, E-16, E-115 and E-159 are 5 ballots. Of these ballots only E-15 and E-16 have been

written by the same hand and are therefore rejected. The rest are admitted.

Exhibits E-68, E-98 and E-7. All admitted. The ballots were prepared by distinct hands.

Exhibits E-24, E-25 and E-82. The last named ballot is admitted, it being prepared by a distinct hand. The first two however are verified to have been written by the same person and therefore rejected.

Exhibits E-23 and E-29. Both are admitted. Not written by the same hand.

Exhibits E-43, E-114, E-111 and E-22. The first two in this group of ballots were not prepared by the same hand and are therefore admitted. The contention is well taken with respect to the last two ballots. Both are rejected.

Exhibits E-9, E-45, E-104 and E-94. We have thoroughly looked into these ballots and have found all except E-9 to have been prepared by the same hand. Exhibit E-9 is therefore admitted; the other three are rejected.

Exhibits E-12, E-44 and E-93. The contention that these ballots were written by the same hand is true with respect to the last two named ballots which are hereby rejected. The first, being prepared by a distinct hand, is admitted.

Exhibits E-81, E-140 and E-112. The first is admitted, the same being prepared by a different hand. The last two are rejected being written by only one hand.

Exhibits E-41 and E-72. The contention that these were written by the same hand is without merit. Both are admitted.

Exhibits E-26 and E-52. Admitted. Not written by the same hand.

Exhibits E-137 and E-135. These ballots were written by different persons. Both are admitted.

Exhibits E-19 and E-47. Both are admitted. Written by different hands.

Exhibits E-91 and E-128. The contention that these ballots were written by the same hand is not well taken. Both are therefore admitted.

The protestee maintains that in determining the true number of votes cast for the parties in this precinct, the returns of election as recorded by the board of inspectors should be made to prevail over the ballots that were revised by this Tribunal's revisors. The justification for this contention is the alleged tampering of the ballot box in this precinct which, according to the protestee, was made after the election. In support of this allegation, he shows us his exhibits A-2 to A-34 which are ballots bearing a different job and type form number from those recorded to have been issued for use in this precinct

as shown by the receipt signed by the election inspectors for the ballots received from the treasurer of Agutaya.

We have looked into this evidence carefully and have come to the conclusion that ballot exhibits A-2 to A-34 are of the same condition as those marked Exhibits A-1 to A-29 in Precinct No. 2 of this municipality and consequently reject all of them as votes.

We do not however subscribe to the propriety of making the election return prevail over the ballots as controlling evidence of the result of the election as we have done in Precinct No. 2 because in this precinct complete and satisfactory evidence has been adduced as to the true original contents of the disputed ballot box. The general rule that where after the election the ballots cast therein are shown not to have been kept or preserved in accordance with law or that the ballot box has been tampered with to such an extent as to affect the contents thereof the election returns as recorded by the election inspectors should prevail over the ballots as evidence of the true result of the election does not apply where reconstruction of the original contents is yet possible. In this case at bar there is not even any need for such reconstruction because the ballots have not been disfigured at all and there is no doubt as to the presence of the very ballots cast on the day of the election. Moreover, all the ballots cast in this precinct have all been fully identified and the fraud vitiating each localized. As a matter of fact this has been the basis of the objections interposed by the parties and it is through an exhaustive and intelligent evaluation of the merits of these objections that this Tribunal has been able to discover the true will of the voters. We reiterate with equal force our ruling in the case of *Fernandez vs. Baes*, ETHR No. 23, wherein we have said that:

"From all the evidence in the record, we are persuaded beyond doubt that the ballot box from this precinct, as well as its contents, had been violated and tampered with. We are, however, constrained to reject protestant's contention that the election returns should prevail over the ballots themselves in determining the true result of the voting in this precinct. As has been seen, the disputed ballots have been preserved, and they have been examined by this Tribunal. Satisfactory evidence has been adduced in regard to their true contents before they were tampered with. There is, therefore, no reason for disregarding them and relying upon the corresponding election return."

There is another aspect of the evidence presented by the parties that deserves looking into and which we believe is worth our attention in the consideration of the issue. A great number of the ballot exhibits in this precinct were brought before the Tribunal *en banc* where each ballot received the most minute and meticulous examination by the members present. In the course of this examination

we have come to believe beyond any doubt that a considerable number of the protestee's ballots in this precinct were in groups each prepared by just one person. This circumstance, in the Tribunal's mind, points to an irrefutable conclusion that the tampering of the ballot box in this precinct was done not only after but also before and on the day of the election while actual voting was in progress. It is evident therefore that even the election returns made by the inspectors are not totally free from taints of irregularities and, as such, in no case can they be made to prevail over the evidentiary value of the ballots now before us and which have already received our full consideration.

In view of the foregoing, we are constrained to deny the protestee's petition and continue instead with our appreciation of the remaining ballots in this precinct.

Exhibit A-1. This ballot is objected to as marked for containing the word "victory" written in tiny letters before the word "Liberal" in the space for party voting.

The Tribunal is of the opinion that this does not constitute a mark for identification. The ballot is admitted.

Exhibits A-69 and A-77. These ballots are objected to on the same ground as above for containing the letters "F" and "E" after the word "Liberal" in the space for party voting on the two ballots respectively.

We are of the opinion that said letters do not constitute a mark and the ballots are hereby admitted. (Par. 18, Sec. 149, Revised Election Code.)

Exhibits A-59 and A-67. These ballots are objected to as prepared by the same hand. We find otherwise and therefore admit both.

Exhibits A-49 and A-79. The objection to these ballots is the same as stated above. On a similar finding of fact, the ballots are admitted.

Exhibits A-51, A-60, A-40 and A-78. The same objection is entered against this group of ballots. We have examined each one carefully and find the objection to be without merit.

All the ballots are admitted.

Exhibit A-81. This ballot is from the red box, but the evidence of record reveals that it is not spoiled.

The protestee claimed this ballot as a valid vote for him for containing the word "Narla" in the space for party voting which, according to him, is *idem sonans* to Nacionalista. We however decipher the same word to read "Varla". In either case, we are of the opinion that it is not *idem sonans* to Nacionalista. In the second instance the word does not even correspond to any of the correct syllables of the word Nacionalista.

The ballot is therefore rejected.

Exhibit A-82. This ballot is also from the red box but like the above has been shown not to be spoiled. The ballot is claimed by the protestee as a vote for him for containing the word "Naciadentas" in the proper space for block voting.

Although this member is personally of the opinion that the word appearing may be interpreted as an effort of the voter to write out "Nacionalista", of which the protestee is an official candidate, the majority of the Tribunal's members are of the belief that this word can not accurately be considered as *idem sonans* to Nacionalista. The circumstance that the word written appears to be a product of one versed in the calligraphic art is indicative that the voter could easily have written the word Nacionalista if this were really his intention. The ballot is therefore rejected.

Exhibit A-83. This ballot is from the red box too but is likewise shown to be not spoiled.

The protestee claims this as a valid vote for him for containing the word "Nacionalista" in the proper space.

We are of the opinion that protestee's contention is meritorious. In coming to this conclusion the Tribunal is of the belief that the name of a non-candidate written on a space for senators, as on this ballot, does not nullify the vote for the protestee. This is in accordance with the provisions of the Revised Election Code, paragraph 13, section 149 and our previous rulings on ballots of this nature.

Summarizing, we find the standing of the parties in this precinct as follows:

Española		Abordo	
Uncontested	0	Uncontested	94
Admitted	47	Admitted	45
Total	47	Total	139

AGUTAYA—Precinct 4

During the pre-trial, 53 of 166 ballots for protestee were objected to by the protestant; 4 of 26 ballots for the latter were objected to by the protestee. The protestant claimed one more ballot from the red box.

Exhibit E-1. This ballot is objected to for the reason that the person voted for in the space for representative is Estanelao Abordo and therefore does not sufficiently identify protestee. The objection, in our considered opinion, is meritorious since the name of the protestee is Gaudencio which is entirely different from what is written on this ballot. The ballot is therefore rejected consistent with our rulings in cases of this nature (*Fernandez vs. Baes*, ETHR Case No. 23, p. 8, on ballot F-19, F-2,

Lumban; Vesara *vs.* Clarin, ETHR Case No. 7; Valenzuela *vs.* Carlos, 42 Phil., 428; and Cecilio *vs.* Tomacruz, 62 Phil., 689).

Exhibit E-2. This ballot is objected to as marked for containing on line 4 for senators the name of Eustaquio M. Aban, non-candidate. The name of protestee appears on proper space. Ballot admitted under Section 149, paragraph 13 of the Revised Election Code.

Exhibit E-3. This ballot is objected to on the same ground and under a similar circumstance. Under the same rule of law, above, the ballot is admitted.

Exhibits E-4, E-5, E-6 and E-7. All of these ballots were objected to as illegal on the ground that they were not prepared by the persons legally registered in the registry list of voters. The only evidence presented by the protestant to prove his contention is the fact that the signature in the column of the registry list of voters where the voters signed for the receipt of the ballots issued to them on the day of the election are not the same as the names appearing in the list made by the board of election inspectors. We have carefully looked into this aspect of the evidence and in nearly all of these, the names, as signed by the voters vary only with respect to the middle initials. In some instances the family names also vary, but it can be noticed that the variations herein refer only to women voters. We are of the opinion that the evidence submitted by the protestant in support of his contention is not sufficiently adequate to overcome the presumption of law in favor of the validity of the ballots. We are more inclined to believe that the voters referred to herein have, in signing their names, used the family names of their husbands instead of their maiden names. All these ballots are therefore admitted.

Exhibits E-8 and E-9. These ballots are objected to as illegal on the ground that they were prepared by absentee voters. In support of this contention protestant has submitted evidence to show that the persons listed in the registry list and recorded to have been issued ballots in the list of voters bear the same names as the voters listed and also recorded to have cast their votes in Precincts Nos. 18 and 20 of Puerto Princesa in the same election. It is further shown that these same voters who voted in Puerto Princesa are from Agutaya, the precinct herein involved. The evidence, however, is not convincing enough for the purpose of proving the merit of protestant's contention. The mere fact that in Puerto Princesa there appear voters with the same name as those in this precinct, even assuming that the voters in the former place are also from Agutaya, alone does not preclude the possibility of the existence of identical names

of persons from an identical place. It is our considered opinion that the legal presumption in favor of the validity of these ballots should prevail over the evidence at hand. Consequently, we rule that the ballots should be, as they are hereby admitted.

Exhibits E-11, E-12, E-13 and E-14. The objection to these ballots is based on the ground that they were prepared by minors who succeeded in having themselves registered in the list of voters. The protestant having withdrawn his objection in his memorandum, the ballots are hereby admitted.

Exhibit E-15. The objection to this ballot has also been withdrawn by protestant in his rejoinder. The ballot is therefore admitted.

Exhibit E-16. Admitted. The objection has been withdrawn by the protestant.

Exhibit E-18. Admitted. Same as above.

Exhibit E-17. This ballot is objected to as illegible. We read the word written in the space for party voting as "Nancaluta", which is *idem sonans* to Nacionalista. The ballot is therefore admitted.

Exhibit E-20. Objected to as stray for the protestee. It is claimed that the name written in the space for representative has been cancelled. While it is true that there is a path of light pencil showing across the surname Abordo in the space for representative, yet it can not easily be taken as an indication of the voter's desistance from voting for protestee. Moreover, even assuming that the said surname of protestee has been cancelled, his Christian name remains in the proper space so that the ballot is still valid as a vote for him under section 149, paragraph 1 of the Revised Election Code. The ballot is therefore admitted.

Exhibit E-21. The objection to this ballot is based on the same ground as those on ballots E-4, E-5, E-6 and E-7 of this precinct. The evidence presented is also of the same nature. In the same manner that we have upheld the validity of the preceding ballots we also hold that this ballot is valid. It is therefore admitted.

Exhibits E-22 and E-23. These ballots are valid votes for protestee and are therefore admitted. The contention that they were written by the same hand is untenable.

Exhibits E-24, E-25 and E-26. These ballots were written by different hands. They are hereby admitted.

Exhibits E-27 and E-28. The contention that these ballots were prepared by one hand is meritorious. We have examined them carefully and are convinced that they were in fact written by same person. The ballots are therefore rejected.

Exhibits E-29 and E-30. Admitted. These were not written by the same hand.

Exhibits E-31 and E-32. The objection to these ballots as prepared by one hand is untenable. The ballots are admitted.

Exhibits E-33 and E-34. These ballots were written by distinct hands. They are therefore admitted.

Exhibits E-35, E-36, E-37 and E-38. These were prepared by different hands. They are therefore all admitted.

Exhibits E-39 and E-40. We have carefully looked into these ballots and have found them to have been written by one person only as alleged. They are therefore rejected.

Exhibits E-41 and E-42. Admitted. The ballots were not written by the same hand.

Exhibits E-43 and E-44. These were prepared by different hands. Both are admitted.

Exhibit E-45, E-46, E-47 and E-48. The objection that these ballots were written by the same hand has no merit. They are therefore all admitted.

Exhibits E-49 and E-50. Admitted. The ballots were prepared by different hands.

Exhibits E-51, E-52 and E-53. We have examined ballots thoroughly and found the first two to have been written by one hand. The last one, however, was written by a distinct hand and is hereby admitted. The first two are rejected.

Exhibits E-54 and E-55. The protestant's contention that these two ballots were prepared by the same hand is well taken. Both are therefore rejected.

Exhibit E-4. This ballot is claimed by the protestant from the box for spoiled ballots. The evidence on hand shows that this ballot though found in the red box is in fact not spoiled. According to the minutes of voting for this precinct there were 199 ballots used by 195 voters showing that four extra ballots were used. According to the CE Form 3 and the registry list of voters for this precinct, 4 ballots were spoiled and these bear coupon Nos. 1601, 1621, 1682 and 1709, all found in the red box when opened for revision with their respective coupons undetached and bearing the endorsement spoiled on their backs. These tally with the number of ballots used and the number of voters who voted showing that there were 4 ballots spoiled in this precinct. Since these are the only spoiled ballots in this precinct and ballot E-4 shows a condition of validity on its face, it is clear that it is not a spoiled ballot.

The protestant claims this ballot as a valid vote for him because the only word written on its face and

in the proper space for party voting reads "Labral". Clearly this word is *idem sonans* to "Liberal" which is the party of the protestant. It is therefore a valid vote and the ballot is hereby admitted and counted for him.

Exhibit A-1. This is objected to as a marked ballot for containing the name of a non-candidate, Alberto Radam, in the space for President. The protestant's name appears correctly voted thereon. The objection is untenable under section 149, paragraph 13 of the Revised Election Code.

Exhibit A-2. Objected to on the same ground as above stated for containing the name of a non-candidate, Artemio Quipquip, on line 8 for senators. The protestant's name is on the proper space. The ballot is admitted under the above-cited rule.

Exhibits A-3 and A-4. Objected to as written by the same hand. The objection is without merit. The ballots are admitted.

Summarizing, the standing of the parties in this precinct is as follows:

ESPAÑOLA		ABORDO	
Uncontested	22	Uncontested	113
Admitted	5	Admitted	44
Total		Total	
27		157	

AGUTAYA—Precinct 5

At the pre-trial, the protestant objected to 151 of 157 ballots for the protestee and the latter objected to all 54 ballots adjudicated to the former. The protestee claimed 15 more ballots as valid votes for him. Of these, 3 are from the white box and 12 from the red box. The protestant also claimed 3 more ballots from the red box as valid votes for him.

Before proceeding to consider the merits of the individual objections and claims of the parties, we deem it necessary to state certain facts relative to this precinct as adduced from the evidence of record. "In the whole proceedings in this contest, this is undoubtedly the most controversial precinct. Charges and counter-charges of frauds were made by the parties against each other. The evidence presented by the parties, chiefly documentary—specially those of the protestant—in support of their respective contentions, is voluminous. To give both contestants all the chances to prove the merits of their contention, we called, of our own accord, for an oral argument by their respective counsels before the Tribunal *en banc*. Among others, the protestant maintains that a number of voters in this precinct were each issued two ballots, both of which were considered valid and appreciated for protestee; that the registry list of voters was padded by means of

insertion of names of persons not registered during the days provided for by law for the purpose; that the ballots used were in the possession of the election inspectors about a week before the election; that some leaves in the registry list of voters were extracted therefrom and in their place new ones inserted bearing additional names of voters; that the voters affidavits were illegally prepared because the alleged signatures on these affidavits were made by the inspectors or persons other than those whose names appear in the same voters affidavits; that the registry list as a whole was illegally prepared; that the board of election inspectors either actively cooperated or directly participated in the commission of election anomalies and that the ballots cast for protestee were prepared by persons other than those legally registered in the list of voters. On the basis of above allegations, protestant asks us to annul the election in this precinct.

The protestee on the other hand maintains that the election returns in this precinct should prevail as the best evidence of the result of the election in this precinct as against the ballots which were revised by this Tribunal's revisors for the reason that the ballot box has been tampered with after the election. As evidence in support of this contention, protestee shows us ballot Exhibits A-2 to A-24. We shall rule on this matter later.

Both parties presented fingerprints experts. The purpose, on the part of protestant, was to show that the thumb prints appearing on the coupons of the ballots are not identical to the thumb prints of the voters in the list to whom the ballots were issued, a circumstance indicative that the ballots were prepared by persons other than the voters; and, on the part of the protestee, to show that there was in fact a "general displacement" of the ballots' serial numbers in the list caused by an honest mistake on the part of the election inspectors and for which the voters had no fault at all. In support of this latter theory, protestee presented the deposition of the inspectors of this precinct. This was done after the parties had rested their case and submitted their memoranda, but we have nevertheless noted their contents, if only to delve deeper into the merits of their respective contentions. Said inspectors, in their depositions, in part supported protestee's theory of general displacement, because, according to them, they made a mistake in the placing of serial numbers in the list insofar as the first 20 voters or so were concerned. But how about with respect to the succeeding voters who number well over one hundred? In the logical course of events, the fingerprints of the voters in the list should be identical with those on the coupons of the ballots issued to them, at least with respect to

all the voters who voted after the 20 mistakes were committed by the inspectors. On the other hand, if full credence and effect were given to the protestant's expert witness, we would have to invalidate the greater number of the ballots cast for protestee in this precinct.

Faced with such a dilemma, this Tribunal spared no effort to the end that the truth of the matter may be brought to light. To this end, the Tribunal, on its own initiative, decided to avail itself of the services of an impartial fingerprint expert. One from the NBI was secured for the purpose. An entire two-week period was spent for continuous and meticulous examination of the fingerprints involved. Our instruction to this expert was to find out the number of fingerprints appearing on the list of voters that corresponded to the fingerprints in the coupons of the ballots and to find out further if there were prints appearing on the coupons which were identical to each other. At the end of the two-week period, the NBI expert personally reported his findings to the Tribunal en banc. On the basis of his findings, we have come to know that out of the 150 fingerprints appearing on the same number of coupons, 22 corresponded to an equal number in the list of voters, although the serial number of these coupons do not coincide with those recorded in the list. This in part supports protestee's theory and incidentally corroborates the testimony of the election inspectors of this precinct with respect to the 20 honest mistakes, more or less, they stated to have committed. On the other hand, we have found out that 20 coupons of ballots bear the fingerprints of only one person. These coupons having identical prints are found to match ballot Exhibits E-13, E-45, E-54, E-55, E-56, E-57, E-58, E-65, E-68 E-70, E-72, E-74, E-87, E-97, E-107, E-128, E-137, E-143, E-145 and E-150. There is no doubt in our mind that these ballots were prepared by only one and the same person and the Tribunal voted for the outright rejection of these ballots as votes for protestee. We take judicial cognizance of the well known theory of the science of fingerprinting, which finds unanimous support among authorities on the subject, that identity of fingerprints means identity of persons.

The NBI expert further testified that the rest of the prints appearing on the coupons and in the list which number a little over one hundred were totally incapable of being examined either because they were only partially impressed, extremely blurred, with overlapping ridges, or, as in quite a number of instances, the prints were completely smudged. There is, therefore, no way of determining whether these remaining prints corresponded to those in the list of voters or were in fact fingerprints of only one or of a few persons.

Faced with this serious obstacle, the Tribunal decided to take the next most logical step and this consisted in going over the ballots individually with the end in view of determining the merits of the objections interposed by the parties.

As a result of our individual examinations of the ballots, we have, in addition to the 20 we have already rejected above, found that ballots Exhibits E-61, E-62 and E-63 were also written by only one person as contended by the protestant and have consequently rejected them.

Exhibits E-121 and E-122 are indisputably also prepared by only one hand. Both are likewise hereby rejected.

Exhibit E. On this ballot the candidates are individually voted for. The name of the protestee does not appear on the proper space nor on any part of the ballot. It is therefore rejected as a vote for him.

Exhibits E-1, E-2 and E-4. These ballots were objected to as marked for containing on some of the lines for councilors names of places or words which are not names of persons.

The protestant contends that the words written can not be the object of a vote or are immaterial expressions on the ballots. The name of the protestee however appears on the proper spaces on these ballots. The Tribunal has chosen to admit them as valid votes for protestee. We have also admitted ballots of this nature for protestant in Precinct No. 16 of Cuyo.

Exhibit E-3. This ballot is objected to as marked for containing on the last space for councilors the name "Zabanal II", a non-candidate. The ballot is admitted under paragraph 13, section 149, Revised Election Code.

The rest of the protestee's ballots contested, a total of 121, in groups, are objected to as prepared by the same hand. We have gone over the individual ballot in each group and, after thorough examination, decided to accept all of them. The Tribunal is of the opinion that the objection interposed was not fully substantiated by the handwritings appearing on these ballots.

Exhibits E-151, E-152 and E-153. These three ballots are from the red box. The protestant claims them as valid votes for him because he or his party was properly voted on all of them. There is however no proof submitted to overcome the presumption of law that ballots in the red box are spoiled. Consequently, all these ballots are rejected.

We shall now proceed to consider the protestee's contention and objections in this precinct. He maintains that the election returns should prevail over the ballots revised insofar as the result of the election is concerned because the ballot box had been tampered with after the

election as shown by his ballot Exhibits A-2 to A-24. These ballots are similar to those marked Exhibits A-2 to A-34 in Precinct No. 3, this municipality. In accordance with our ruling with respect to the last named ballots in Precinct No. 3, we have rejected ballot Exhibits A-2 to A-24 of this precinct. Under the same legal consideration, we disagree with protestee's theory that the election returns for this precinct should prevail. Moreover, the evidence on hand as shown by the findings of the NBI fingerprint expert is conclusive to our mind that the ballots in this precinct were tampered with on the very day of the election during the process of voting and not only thereafter. Under this circumstance, there is no doubt that the election returns should not, as it cannot, be made to prevail over the ballots themselves for that would be in direct contravention to the known jurisprudence on the matter.

We have, however, admitted ballots Exhibits A and A-1, because we believe that both ballots were not prepared by one hand as alleged by protestee.

Exhibits A-25 and A-27. These ballots are from the white box and are claimed by the protestee as valid votes for him for containing in the space for party voting the word "Nacio" in both ballots. This word is alleged to be *idem sonans* to Nacionalista. Ordinarily, the contention should deserve merit but upon examination of both handwritings, we are convinced that the ballots were in fact prepared by only one person. We, therefore, voted to reject both ballots.

Exhibit A-26. This ballot is from the valid box and is claimed by the protestee as valid vote for him for containing the word "Nacionlitis" in the proper space, the only one on the ballot. We believe the word to be *idem sonans* to Nacionalista and, therefore, admit the ballot as valid vote for protestee.

Exhibits A-57 to A-68, 12 ballots in all, are claimed by the protestee because, according to him, he is properly voted for on all of them. These are, however, from the red box and, there having been no proof to show that the ballots were in fact not spoiled, the presumption that ballots in the red box are deemed spoiled should prevail. All the above ballots are, therefore, rejected as votes for protestee.

The rest of the ballots for the protestant in this precinct marked Exhibits A-28 to A-56, 29 ballots in all, have not been objected to on any specific ground. All are therefore admitted as valid votes for the protestant, with the exception of Exhibits A-33 and A-34 which were apparently written by the same hand. These last two named ballots are rejected.

We shall presently state our reasons for not annulling the result of the election in this precinct. While it is true that we have noted certain discrepancies committed and which cannot be easily justified or explained, yet these, in our opinion, are not of such magnitude as to really affect the entire result. While it is also true, even as testified to by the inspectors, that the proceedings of this election are to a certain extent irregular, yet we believe it is not so tarnished by such fraudulent acts and illegalities as to render the whole result corruptly false. Moreover, the ballots in this precinct have been fully identified and the fraud vitiating each particularized so that the ballots not affected by any irregularity or those capable of being validly appreciated could be separated and individually considered. In fact, this we have actually done. Finally and above all, this being among the last precincts to be considered in these proceedings, we have found out that the final outcome of this case would not in any way be affected whether or not the result of the election in this precinct is annulled. This Tribunal remains of the opinion and hereby reiterates the doctrine that "the power to avoid or annul an election should be exercised with the greatest care and circumspection and only in extreme cases of fraud under circumstances which demonstrate beyond doubt and to the fullest degree a fundamental and wanton disregard of the law, sufficient in extent to change the result, and which is so persistent and so grave that it is impossible to distinguish the legal from the illegal votes, or to arrive at any certain result whatsoever" [*Ombra vs. Rasul* (1951), ETHR El. Case No. 38; *Tolentino vs. Serrano* (1949) ETHR El. Case No. 2; *Roque vs. Lava* (1948), ETHR El. Case No. 20; *Buyson vs. Yuson*, (1949), ETHR El. Case No. 21; and, also *Laurel on Election* (1940), pp. 301-304].

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	0	Uncontested	6
Admitted by Tribunal	29	Admitted by Tribunal	126
Total	29	Total	132

AGUTAYA—Precinct 6

During the pre-trial, the protestant maintained his objection to the 133 ballots credited for the protestee by the Board of Revisers. The 7 ballots adjudicated to the protestant in this precinct were unobjected to. The protestee claimed 8 more ballots which were unadjudicated to any candidate during the revision. Two of these ballots

are from the red box, while the rest are from the box for valid ballots.

The protestant asked for the annulment of the election in this precinct on the alleged ground that, while the voting started on the hour prescribed by law on election day, it was unreasonably and illegally extended to the wee hours of the morning. This allegation has for its basis the minutes of voting which was presented as evidence to support the said allegation. The protestee also showed us that this precinct was located on a remote and tiny island supposed to be usually inaccessible, and from this circumstance inferred the opportunities and probabilities for the commission of fraud.

With respect to the first evidence presented, the same is totally uncorroborated. Besides, there is no evidence *aliunde* presented to prove any fraudulent act in connection with this extension of voting time. As a matter of fact, section 130 of the Revised Election Code expressly provides for such extension for the purpose therein stated so that even assuming that protestant's contention is true, the presumption is that the provision of the law was followed by the election officials. We are not inclined to give credence to protestant's allegation of the probabilities for the commission of fraud because this is only a conjecture on his part.

We therefore rule to deny the annulment of the election in this precinct since there is absolutely no reason to justify it. We shall instead proceed to examine each and every ballot in relation to the objections interposed by the parties.

Exhibit E-12. This ballot is objected to as illegal in that it was prepared and emitted by one not legally registered in the registry list of voters for this precinct.

In support of this contention the protestant offered the registry list of voters which covered the last day of registration for voters, which was on October 1, 1949 in that election. The name of the voter to whom this ballot was issued did not appear in this list as of the last day of registration. That was the day designated by law to be the last for registration of voters. As a matter of fact in the entry of the name of this voter in the list used on the day of election there appears a date, which is October 29, 1949. This is found on page "R", line 145 of same registry list. Clearly this date is exactly 4 weeks after the last day of registration on October 1, 1949. On a similar case in point our Supreme Court held:

"* * * There is not the least shadow of a doubt that the election officials completely ignored the law by registering voters

outside the day fixed by law and that act resulted in the registration and voting by unqualified voters whose right could not be challenged due to the material lack of time". (*Reyes vs. Biteng*, 57 Phil., 140.)

The Tribunal is of the opinion that the objection to this ballot is wisely taken. This ballot is therefore rejected. (See also *Guzman vs. Claveria*, First Philippine Assembly.)

Exhibits E-39, E-98 and E-65. The objection to these ballots is that they are prepared by the same hand. This Tribunal has examined each one of them meticulously and is convinced that they were in fact written by only one hand. The ballots are therefore rejected.

Exhibits E-20 and E-118. Admitted. The contention that they were written by one hand is untenable.

Exhibits E-69 and E-70. These ballots were written by the same hand. They are therefore rejected.

Exhibits E-78 and E-81. These ballots were written by different hands and are admitted.

Exhibit E-12 and E-13. The objection to these ballots is well founded. They were written by one hand. The ballots are rejected.

Exhibits E-15 and E-17. These ballots were written by the same hand. Rejected.

Exhibits E-23 and E-24. These were likewise written by one hand. Rejected.

Exhibits E-21 and E-22. These are also prepared by the same hand. Rejected.

Exhibits E-25 and E-116. The objection is meritorious. The ballot were written by one hand. Rejected.

Exhibits E-87 and E-90. These ballots were likewise prepared by one hand as alleged. They are therefore rejected.

Exhibits E-125 and E-127. These are clearly prepared by the same hand. The objection is well taken and the ballots rejected.

Exhibits E-117 and E-128. These ballots were written by one person. Both ballots are rejected.

Exhibits E-18 and E-16. These are also prepared by one hand. Ballots rejected.

Exhibits E-53 and E-97. Written by same hand. Rejected.

Exhibits E-88 and E-89. These were also prepared by the same persons. Rejected.

Exhibits E-91 and E-92. These ballots were not written by only one hand. They are, therefore, admitted.

Exhibits E-62, E-47, E-96, E-126 and E-93 are 5 ballots. We have examined these ballots carefully and are convinced that they were really prepared by only one person. All of these are hereby rejected.

Exhibits E-74 and E-75. These were prepared by distinct hands. Admitted.

Exhibits E-79 and E-80. Admitted. These were prepared by different hands.

Exhibits E-49, E-48 and E-85. Of these three ballots the Tribunal is of the opinion that only the first two were prepared by the same hand and are rejected. The last one being written by another person, it is admitted.

Exhibits E-40 and E-46. Both these ballots are admitted; same were not prepared by the same hand.

Exhibits E-33 and E-42. These were written by distinct persons and are therefore admitted.

Exhibits E-41 and E-43. Both are rejected because they were prepared by one hand.

Exhibits E-61 and E-71. They were clearly written by one person. Rejected.

Exhibits E-44, E-27, E-26 and E-30. In this group, the third ballot, E-26, is prepared by a distinct hand and is therefore admitted. The other three were written by one person and are hereby rejected.

Exhibits E-29, E-63, E-37 and E-31. In this group, E-37 was prepared by a distinct hand and therefore admitted. The rest are rejected for being prepared by the same hand.

Exhibits E-28 and E-32. These ballots were clearly prepared by a single hand and are therefore rejected.

Exhibits E-54, E-55 and E-82. The last ballot in this group shows that it was prepared by a distinct hand and is hereby admitted. The first two were prepared by the same hand and are therefore rejected.

Exhibits E-56 and E-58. Both ballots were written by different persons. Admitted.

Exhibits E-83 and E-84. Both are admitted, being written by distinct persons.

Exhibits E-8, E-11, E-9, E-10 and E-1 are 5 ballots. It is patent from the faces of these ballots that they were prepared by one hand. All of them are therefore rejected.

Exhibits E-59 and E-100. These were not written by one hand. Admitted.

Exhibits E-110 and E-111. Admitted. Written by distinct hands.

Exhibits E-120 and E-124. These were prepared by different persons. Admitted.

Exhibits E-119, E-101 and E-107. In this group, E-101 appears to have been prepared by a distinct hand and is therefore admitted. The other two were undoubtedly prepared by one person and are therefore rejected.

Exhibits E-67, E-73 and E-68. All of these were written by only one person. They are therefore rejected.

Exhibits E-19, E-64 and E-86. There is doubt that these ballots were written by one person. They are, therefore, admitted.

Exhibits E-50, E-51 and E-52. Admitted. They were written by different persons.

Exhibits E-94 and E-95. These were prepared by different hands. Both are admitted.

Exhibits E-106 and E-123. These ballots were prepared by different hands. Both are admitted.

Exhibits E-7, E-6, E-5, E-4, E-3, and E-2 are 6 ballots. A careful study of these ballots reveals that all of them were prepared by just one person. All are rejected.

Exhibits E-76, E-60 and E-102. It is evident that the first of these ballots was prepared by a distinct hand. The last two, however, show that they were prepared by one hand. The first is therefore admitted as the last two are hereby rejected.

Exhibits E-77 and E-109. Both were prepared by distinct hands. Admitted.

Exhibits E-104 and E-99. The ballots are admitted being prepared by different persons.

Exhibits E-103 and E-108. These were prepared by different hands and are therefore admitted.

Exhibits E-121 and E-122. Both are admitted; same finding of fact as above.

Exhibits E-72, E-66 and E-45. It is patent that the last one was prepared by a distinct hand and is hereby admitted. The first two, however, show that they were in fact written by only one person and are therefore rejected.

Exhibits E-35 and E-57. Both of these ballots are rejected, having been prepared by the same person.

Exhibits E-34, E-38 and E-36. We are convinced that these ballots were prepared by one hand. All are therefore rejected.

The objections with respect to the rest of the ballots of protestee, a total of 11 ballots, are not found in protestant's memorandum nor is there any mention by reference to the transcript. We deem this omission to be an implied waiver, and all the ballots referred to are therefore admitted.

Exhibit A-3. This ballot is from the valid box and is claimed by protestee as valid vote for him for containing the word "Mcisa" in the space for party voting. We believe that this word is *idem sonans* to Nacionalista of which protestee is the official candidate for representative. The ballot is admitted and counted in his favor.

Exhibit A-6. This ballot is from the red box, but it has been satisfactorily shown that it is not spoiled. It is claimed by protestee as a valid vote for him for containing the word "Nacionalista Narinyi". We believe that the word written is *idem sonans* to Nacionalista and is therefore admitted.

Exhibits A-7 and A-8. The claim for these ballots as valid votes for the protestee has been withdrawn. Both are rejected.

Summarizing, the standing of the parties in this precinct is as follows:

ESPAÑOLA		ABORDO	
Uncontested	7	Uncontested	0
Admitted	0	Admitted	62
Total	7	Total	62

CORON—Precinct 6

After revision by counsels, protestant waived his objections to ballots E-1, E-2, E-3 and E-5 in the revisors' report. Protestant objected to 1 of 83 ballots for protestee, while the latter objected to 1 of 33 ballots for protestant. Protestant claims 2 more ballots from those not adjudicated to any candidate, one from the white box and the other from the red box.

Exhibit E-4. This ballot is objected to as stray since the word written in the proper space reads "Nacanilta". The Tribunal holds that this is *idem sonans* to the word Nacionalista and therefore a valid vote for protestee. The ballot is admitted.

Exhibit A-3. This ballot is objected to as marked for containing a letter before the word Liberal in the space for party voting. The alleged mark therein in reality is an attempt of the voter to start the first letter of the word "Liberal" which he discontinued and crossed out before finally writing the present word (Liberal) appearing on the ballot. The objection is untenable and the ballot is therefore admitted.

Exhibit A-4. This ballot is being claimed by the protestee as a valid vote for him for containing the word "Nacional" in the space for party voting. The Tribunal is of the opinion that this is *idem sonans* to Nacionalista of which the protestee is the official candidate for representative. It is therefore admitted in accordance with our previous rulings on the matter. (Viola vs. Atienza, ETHR No. 61.)

Exhibit A-6. The only letters appearing in the space for party voting in this ballot are the initial "N. P.". Protestee has waived his claim on this ballot in his memorandum. It is therefore rejected.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	32	Uncontested	82
Admitted	1	Admitted	2
Total	33	Total	84

CORON—Precinct 7

After revision by counsels, protestant objected to 12 of 77 ballots for protestee, while the latter in turn objected to 18 of 47 ballots for the former.

Exhibit E-2. This ballot is objected to as stray for protestee because the word "Nacionalista", the only one appearing on the ballot, appears on line 1 for senators. The objection is meritorious and the ballot is rejected in accordance with our previous rulings (*Viola vs. Atienza*; *Fernandez vs. Baes* and also section 149, paragraph 19, Revised Election Code).

Exhibits E-14, E-16 and E-8. These ballots are objected to as prepared by the same hand. The objection is untenable. The ballots are admitted.

Exhibits E-10, E-17 and E-19. These ballots are also objected to as having been written by one person. Careful reexamination of the ballots does not sustain the objection. All these ballots are admitted.

Exhibits E-5 and E-13. These ballots are objected to because they were prepared by the same hand. The ballots are found to be as alleged by the protestant. Both are rejected.

Exhibits E-6, E-9 and E-11. The objection to these ballots is the same as above. We have found the ballots as alleged. All of them are therefore rejected.

Exhibit A-21. Objected to as insufficient to identify the protestant's party, the word written being "Jasasal", according to protestee. We decipher the same word to read "Lavara!" which is *idem sonans* to "Liberal", protestant's party. The ballot is admitted as a valid vote for him.

Exhibits A-2 and A-3. Objected to as written by one hand. We have found the ballots to be as alleged and therefore reject them.

Exhibits A-4, A-5 and A-6. The second in this group of ballots is written by a distinct hand and is therefore admitted. The other two, however, show that they have been written by the same person. They are therefore rejected.

Exhibits A-10, A-9 and A-27. Only the last two were written by the same hand and are therefore rejected. The first is admitted, being written by a different hand.

Exhibits A-12, A-25 and A-26. In this group the first ballot is admitted having been found to be written by a different person. The last two are rejected on the ground alleged which was found to be true.

Exhibits A-13 and A-24. The contention that these ballots were written by the same hand is without merit. Both are admitted.

Exhibits A-15 and A-16. Same objection as above.

The ballots are admitted being patently prepared by different hands.

Exhibits A-22 and A-23. Both are also admitted since they were clearly not written by the same hand.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	29	Uncontested	65
Admitted	10	Admitted	6
Total	39	Total	71

CORON—Precinct 14

After revision by the counsels, protestee objected to 4 to 44 ballots for the protestant. The latter has no objection to any of the 62 ballots for the protestee in this precinct. Protestee claimed one more ballot from the red box.

Exhibits A-3 and A-4. Both ballots are admitted, not being prepared by one hand as alleged.

Exhibits A-5 and A-6. Objected to on the same ground; and for the same finding as above, both are admitted.

Exhibit A-1. This ballot is from the red box, but on the basis of the evidence submitted we are convinced that it is not "spoiled". It is claimed by the protestee as a vote for him for containing on the space for representative the name "Gangdencio" which, according to him, is *idem sonans* to his Christian name, Gaudencio. This ballot is admitted in accordance with our ruling in the case of *Confesor vs. Lutero*, ETHR No. 15, and under paragraphs 1 and 2 of section 149, Revised Election Code.

Summarizing, we find the standing of the parties in this precinct to be as follows:

ESPAÑOLA		ABORDO	
Uncontested	40	Uncontested	62
Admitted	4	Admitted	1
Total	44	Total	63

CORON—Precinct 16

After counsels' revision, protestant objected to 2 of 44 ballots for the protestee and the latter objected to 2 of 81 ballots for the former. The protestant claimed 1 more ballot from among those unadjudicated in the valid box.

Exhibit E-2. Objected to as marked for containing the word "Liberal" on line 1 for senators. The objection is without merit and the ballot is admitted in accordance with our rulings in the past cases (*Confesor vs. Lutero*, ETHR No. 15; *Viola vs. Atienza*, ETHR No. 61).

Exhibit E-3. Objected to as marked for containing the signature of voter Arenas on line 6 for senators. In support of his contention that this ballot was signed by the voter, protestant has matched coupon No. 5068 to this ballot which matching we have verified to be accurate. In the registry list of voters for this precinct, this ballot appears to have been issued to one surnamed "Aranas". A comparison of the signature of voter Aranas in the registry list and the name Aranas appearing in this ballot leaves no doubt in our minds that this voter did actually sign this ballot. Conformably to the uniform rulings in this jurisdiction that ballots signed by voters to whom they are issued are illegal, ballot E-3 is hereby rejected (*Kempis vs. Bautista*, G. R. No. L-2221, 1948; 46 Off. Gaz., Supp. 1, p. 229; *Ochoa vs. Calo* ETHR No. 9).

Exhibit E-5. This ballot is being claimed by protestant from among those unadjudicated ballots found in the white box for containing in the space for party voting "Quirino L. Party" notwithstanding the fact that the words "Straight Quirino Wing" appear diagonally across the ballot from the space for president downward to the last space for senators. In the space for President, however, "E. Quirino" was voted for. This annuls the block-vote and cannot be counted for the protestant. This ballot is rejected.

Exhibit A-1. The objection that this ballot is marked for containing a name of a candidate on the wrong space is without merit. The name of protestant is on the correct space. The ballot is admitted under paragraph 13, section 149, Revised Election Code.

Exhibit A-3. Objected to as marked for containing a small letter "a" before the word Liberal in the space for block voting. We have examined the alleged mark and found it to be a letter not easily identified but which was crossed out by the voter. It is reasonable to suppose that this was an attempt on his part to start writing the word "Liberal" but, for reasons of symmetry in the handwriting on the ballot, he has cancelled and then written the complete word again. The ballot is admitted.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	79	Uncontested	92
Admitted	2	Admitted	1
Total	81	Total	93

CORON—Precinct 19

After revision by counsels, 36 of 54 ballots for protestee were objected to by the protestant. The former has no

objection to the 4 ballots for the protestant. The protestee claimed 2 more ballots from those unadjudicated taken from the valid box.

Exhibit E-41. This ballot is being objected to as illegal in that it was prepared by one other than the legally registered voter in the list. The evidence on this point, however, has not been sufficient to overcome the presumption in favor of the validity of the ballot. It is therefore admitted.

Exhibits E-14, E-15 and E-16. These are objected as prepared by the same hand. We have carefully scrutinized them and found the objection to be well founded. All are rejected.

Exhibits E-12 and E-13. These are objected to on the same ground. We believe that these ballots were written by different persons. Both ballots are admitted.

Exhibits E-17 and E-18. Both of these ballots are also rejected for being prepared by the same hand.

Exhibits E-19 and E-20. These ballots are both rejected for being prepared by the same hand.

Exhibits E-23, E-24 and E-25. In this group of ballots, the first two are as alleged in the objection. The last one however was prepared by a distinct hand. The first two are therefore rejected; the last one is admitted.

Exhibits E-26, E-27 and E-28. On the faces of these ballots it is patent that they were written by just one person as alleged in the objection. They are therefore all rejected.

Exhibits E-10 and E-11. These two ballots are admitted, the same being prepared by different persons.

Exhibits E-9 and E-8. Both ballots are admitted on the same finding of fact as above.

Exhibits E-6 and E-7. For the same reason as above, these ballots are admitted.

Exhibits E-1, E-2, E-3 and E-4. The objection that these ballots were prepared by the same hand is well founded. They are all rejected.

Exhibits E-34 and E-35. Both are admitted. The objection that they were written by the same hand is untenable.

Exhibits E-32 and E-33. The objection that they were written by the same hand is without merit. Both are admitted.

Exhibits E-29, E-5 and E-30. In this group of ballots, the second is prepared by a distinct hand and is admitted. With respect to the other two, the objection is substantiated and the ballots are therefore rejected.

Exhibits E-37, E-36 and E-38. The second is admitted having been prepared by a distinct hand. The other two are rejected as they were written by one hand.

Exhibits A-4 and A-5. These ballots are being claimed by protestee from among those not adjudicated to anyone in the valid box for containing in the spaces for senators the sentence "I vote for the candidate of the Nacionalista Party", the only ones appearing on these ballots. Both of these were prepared by voters with considerable degree of education, taking into account the quality of penmanship appearing on them. As a matter of fact the very sentence written denotes that the voters are conversant with the English language. It shows sufficient educational attainment. There is every reason to believe that if the voters concerned really desired to vote in the manner prescribed by law they could have done it. The best that can be given to what is written on these ballots shows the intent to vote for the senators only of the Nacionalista Party for which protestee was not a candidate. These ballots are, therefore, rejected (Section 149, paragraph 19, Revised Election Code).

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	4	Uncontested	18
Admitted	0	Admitted	16
Total	4	Total	34

CORON—Precinct 20

After revision by counsels, 9 of 39 ballots for the protestant were objected to by protestee. The protestant on the other hand objected to only 1 of 27 ballots adjudicated to the protestee. The protestant claimed 1 more ballot from the red box.

Exhibit E. This ballot is objected to as illegible. We however deciphered the word written to read either "nauncalula" or "naconalislá". In either case we are of the opinion that the word written is *idem sonans* to Nacionalista. The ballot is admitted.

Exhibit E-1. This ballot is from the red box. The evidence on record shows that in this precinct not a single ballot was spoiled. The minutes of voting shows that 67 ballots were used by 67 voters. The revisors' report however shows that only 66 ballots were contained in the white box when it was opened for revision. Clearly one ballot was misplaced.

The protestant claims this ballot as valid vote for him for containing the word "Liberal" in the space for party voting. This word however appears to have been written in very tiny letters with very light pressure which makes it not easily visible on the ballot. It must have been for this reason that board of inspectors might have failed to

properly appreciate it. However, in the space for party voting we decipher the word written to read "Liberal", a valid vote for protestant. The ballot is admitted.

Exhibit A. The objection that this ballot does not sufficiently identify the protestant's party is without merit. We read the word written in the proper space for party voting to be "Liberal". It is therefore admitted.

Exhibit A-1. Objected to as marked for containing in line 3 for senators the syllables "ulo sugbo". The words alleged may have been syllables of words which the voter did not choose to continue or may have been nicknames of persons voted as candidates. The name of protestant appears on the proper space for party voting. The Tribunal is of the opinion that the words do not constitute a mark on the ballot. It is therefore admitted (paragraph 18, section 148, Revised Election Code; *Villavert vs. Fornier*, G. R. No. L-3050, 1949).

Exhibits A-2, A-7 and A-9. Objected to as prepared by the same hand. The objection is well taken with respect to the first two ballots which are hereby rejected. The third one, however, is written by a distinct hand and is therefore admitted.

Exhibits A-5 and A-6. Both are rejected as prepared by the same hand.

Exhibits A-10, A-11 and A-1. All of these ballots are admitted. The claim that they were written by the same hand is without basis.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	30	Uncontested	26
Admitted	6	Admitted	1
Total	36	Total	27

CUYO—Precinct 9

After revision by counsels, the protestant waived all his objections contained in the revisors' report and all his claims from those not adjudicated to any candidate leaving therefore the 140 ballots for protestee uncontested. The protestee, on the other hand, contested 10 of the 123 ballots for the protestant and claimed two more from the red box.

Exhibit A-1. This ballot is objected to as marked for containing on line 1 for senators the name "Manuel Cabres-tante" among the candidates voted for individually, the protestant one of them. The objection is untenable and the ballot admitted (paragraph 13, section 149, Revised Election Code).

Exhibits A-2, A-4, A-5, A-6 and A-7. These ballots are objected to on the ground that the words written in the space for party voting do not sufficiently identify the word "Liberal" of which the protestant is the official candidate. We have gone over each ballot and in all of them a mere cursory examination of the words written reveal the objection to be without merit. In each one of them the word written is *idem sonans* to "Liberal". All these ballots are therefore admitted.

Exhibits A-12 and A-13. Objected to as prepared by the same hand. The objection is meritorious and the ballots are rejected.

Exhibits A-14 and A-15. Objected to on the same ground and the ballots are rejected for the same finding of fact as above.

Exhibits A-9 and A-10. The claim for these ballots from the red box having been withdrawn by the protestee in his memorandum, both are hereby rejected.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	113	Uncontested	140
Admitted	6	Admitted	0
Total	119	Total	140

CUYO—Precinct 13

After revision by counsels, protestee objected to 22 of 37 ballots for protestant, and the latter objected to 13 of 98 ballots for protestee. Protestant has 3 more claims and protestee one more from among the ballots adjudicated. These four ballots are from the red box.

Exhibit E. This ballot is objected to on the ground that the words written in the proper space do not sufficiently identify protestee's party. We decipher said words to read "Nea Anilta". The Tribunal is of the opinion that this is *idem sonans* to the word Nacionalista of which protestee is the official candidate for representative. Ballot admitted.

Exhibit E-19. This ballot is objected to as a stray for the reason that the word written in the proper space is "National". In accordance with our ruling on ballots of the same nature as this one, same is hereby admitted.

Exhibits E-1, E-2, E-3 and E-4. These are objected to on the ground that the ballots were prepared by the same hand. We have meticulously examined each of them and are convinced that the objection interposed is well founded. All of these ballots are hereby rejected.

Exhibits E-9, E-10, E-11, E-13 and E-12. Objected to on the same ground as above. The ballots are found to be

as alleged by the protestant. All of them are therefore rejected.

Exhibits E-15 and E-16. Both ballots are admitted. The objection that they were written by the same hand is untenable.

Exhibits E-20, E-21 and E-22. These are ballots claimed by protestant from among those not adjudicated to any candidate. Although all of them are from the red box, the evidence of record fully establishes that they are not spoiled ballots.

Protestant claimed these ballots as valid votes for him for containing in the spaces for representative his name properly written. All of them are hereby admitted notwithstanding the appearance of names of persons who were not candidates in some spaces for senators (Section 149, paragraph 13, Revised Election Code).

Exhibits A, A-1 and A-3. These ballots are objected to as written by the same hand. We found the objection to be well founded and the ballots are therefore rejected.

Exhibits A-2, A-11 and A-13. In this group of ballots the last was written by a distinct hand and is therefore admitted. The first two however were prepared by the same hand and are hereby rejected.

Exhibits A-6 and A-7. The objection that these were prepared by the same hand is without merit. Both are admitted.

Exhibits A-8, A-20 and A-21. All of these ballots are admitted since they were written by distinct hands.

Exhibits A-9, A-10, A-12 and A-22. In this group of ballots only A-10 and A-12 appear to have been written by the same hand and are therefore rejected. A-9 and A-22 were prepared by different hands and are admitted.

Exhibits A-17, A-18 and A-19. These ballots are not written by the same hand. All are admitted.

Exhibits A-23 and A-24. Both ballots are rejected since they were prepared by one hand.

Exhibits A-25 and A-5. Objected to on the same ground and the ballots rejected on the same finding of fact as above.

Exhibit A-14. This ballot comes from the red box, but the evidence shows that this is not "spoiled".

Protestee claimed this ballot as valid vote for him for containing in the space for party voting the word "Nacionalista" of which he was the party candidate for representative. Notwithstanding the names of non-candidates written in the spaces for President and Vice-President, the ballot is admitted for the protestee under paragraph 13, section 149, Revised Election Code.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	15	Uncontested	85
Admitted	14	Admitted	5
Total	29	Total	90

CUYO—Precinct 14

After revision by counsels, protestee objected to 27 of 55 ballots for protestant, and the latter withdrew all his objections to the ballots for the former, leaving a total of 79 uncontested ballots. Protestant, however, claimed one more ballot from the valid box.

Exhibit E-2. This is from the box for valid ballots. Protestant claims this ballot as valid vote for him for containing in the space for party voting the word "Libel". This is the only word written on the ballot. It is evident that only the letters "ra" are short between the letters "e" and "l" to make the word "Liberal". It is also apparent from the handwriting that the voter is of very scant education. It however represents the product of his honest effort to make his vote effective. The ballot is therefore admitted since the word written is *idem sonans* to "Liberal" of which protestant is the official candidate for representative.

"Minor and honest mistakes in spelling due to ignorance of the voter does not nullify the ballot". (*Valenzuela vs. Carlos*, 43 Phil., 428.)

Exhibit A-1. This ballot is objected to as marked for containing middle names or initials between the Christian and surnames of the candidates voted for. Protestant is clearly voted. The objection is devoid of merit, and the ballot admitted (paragraph 6, section 149, Revised Election Code).

Exhibits A-2 and A-3. These ballots are objected to as prepared by one hand. The objection, in our opinion, is well-founded and the ballots therefore rejected.

Exhibits A-4 and A-27. Both ballots are admitted. The objection that they were prepared by the same hand is untenable.

Exhibits A-5, A-6 and A-14. In this group, the first two had been written by the same hand and are therefore rejected. A-14 is however admitted since this was prepared by a different voter.

Exhibits A-7, A-21 and A-18. The first is admitted, since this was written by a distinct hand. The objection however has merit with respect to the last two ballots which are hereby rejected.

Exhibits A-8 and A-11. The objection that these ballots were written by the same hand is untenable. Both are admitted.

Exhibits A-9, A-16 and A-25. The first two are rejected as prepared by the same hand. The objection however does not hold true with respect to the third ballot which is hereby admitted.

Exhibits A-12, A-24 and A-10. Only the first two ballots in this group were written by the same hand. Both are rejected. The third, which was written by distinct hand, is admitted.

Exhibits A-13 and A-26. These ballots were not prepared by the same hand as alleged. Both are admitted.

Exhibits A-15 and A-17. The objection that these ballots were prepared by only one hand is well-founded. Both are rejected.

Exhibits A-19 and A-20. Both are hereby rejected as prepared by the same person.

Exhibits A-28 and A-29. Both of these ballots are rejected since they had been written by one hand.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	23	Uncontested	79
Admitted	12	Admitted	0
Total		Total	
40		79	

CUYO—Precinct 16

After revision by counsels, the protestee objected to 41 of 49 ballots for the protestant, while the latter objected to 26 of 90 ballots for the protestee.

Exhibit E-25. This ballot is objected to as stray for the protestee. The word "nacionalista" appears in the space for party voting, but on line 1 for senators it is voted "Veloso", candidate for that office and the only name written on the ballot. The objection is well taken since the individual vote for candidate Veloso annuls the party vote. The ballot is rejected as a vote for protestee (section 149, paragraph 20, Revised Election Code).

Exhibit E-24. This ballot is objected to as stray for the protestee. The circumstances with respect to this ballot is exactly the same as those with respect to that mentioned above except that on this one the nullifying individual vote is the name "Quirino" on the space for president. The ballot is likewise rejected (ibid).

Exhibit E-26. Objected to as marked for containing the name of a non-candidate. The objection is untenable under section 149, paragraph 13, Revised Election Code. The ballot is admitted as a vote for protestee.

Exhibit E-23. The same objection as the foregoing is interposed against this ballot. Under the same ruling stated above, the ballot is admitted.

Exhibits E-12, E-8 and E-21. Objected to as prepared by the same hand. The objection is well taken and the ballots rejected.

Exhibits E-15, E-18, E-7, E-5 and E-16. Objected to as prepared by the same person. We have examined these ballots one by one and there is no doubt that one person prepared all of them. All ballots are therefore rejected.

Exhibits E-17 and E-6. Both ballots are admitted as they are prepared by different hands.

Exhibits E-3 and E-19. These are objected to as prepared by the same hand. The ballots are found to have been so prepared. Both are rejected.

Exhibits E-1, E-14, E-11 and E-22. The last two in this group of ballots are admitted since they were prepared by different hands. The first two, however, were written by the same hand and are therefore rejected.

Exhibits E-9, E-13, E-2 and E-4. Objected to as prepared by the same hand. All of these except the last ballot are rejected for they are found to be as alleged. We admit E-4.

Exhibits E-10 and E-20. Both ballots are admitted. They were prepared by distinct hands.

Exhibits A-1, A-21, A-15, A-23, A-28, A-25 and A-13. This group of ballots are objected to as prepared by one hand. We have closely examined each ballot and found that only A-23 and A-25 were in fact so prepared. Both are hereby rejected. The rest were prepared by distinct hands and are therefore admitted.

Exhibits A-2, A-3, A-5, A-6, A-18 and A-24. Objected to as prepared by the same hand. Two of them, A-5 and A-24, are rejected for they were prepared by one hand as alleged. The rest, however, are admitted.

Exhibits A-4, A-8 and A-9. All these ballots are rejected as we find them prepared by one hand.

Exhibits A-7, A-19, A-20 and A-14. In this group of ballots, A-7 and A-14 are found not to have been prepared by the same hand. Both are admitted. A-19 and A-20, however, appear to have been in fact prepared by one hand and are therefore rejected.

Exhibits A-11, A-12 and A-26. This group of ballots is also objected to as prepared by one hand. The contention is well taken and all of them are rejected.

Exhibits A-16, A-27 and A-33. These ballots are objected to on the same ground and finding them to be so prepared, all are rejected.

Exhibits A-17, A-22 and A-31. The first and last in this group of ballots were prepared by one hand. They

are therefore rejected. The second is admitted since it was prepared by a different hand.

Exhibits A-29 and A-30. Both ballots are admitted. The contention that they were written by the same hand is untenable.

Exhibits A-1* and A-28.* These ballots are objected to as marked. The alleged mark on ballot A-1 consist of a tear shape half-dash after the word "Liberal" in the space for party voting; and on A-28, a period after the word "Liberal," also in the space for block voting. The Tribunal is of the opinion that the objections are not well taken and the ballots are admitted in accordance with paragraph 18, section 149 of the Revised Election Code and our ruling on previous cases (*Ochoa vs. Calo*, ETHR No. 9; *Viola vs. Atienza*, ETHR No. 61). Additional objections to Exhibits A-12, A-14, A-19, A-20 and A-22 as marked ballots are without merit. All admitted as previously ruled upon.

Exhibits A-34. This ballot is objected to as marked ballot for containing the name of a person who was not a candidate in the space for representative. This is a marked ballot and annuls the block-vote in favor of the protestant. This ballot is rejected.

Exhibit A-35. Objected to as a marked ballot for containing on line 4 for senators the same "Emetario Cabeldo", a non-candidate. The name of protestant is written on the proper space. The objection is not well taken. The ballot is admitted under paragraph 13, section 149, Revised Election Code.

Exhibit A-37. Objected to on the same ground as above for containing on line 2 for senators the name "Tito Factor". This person was not a candidate for any office and the protestant appears properly voted for. The ballot is admitted under the same rule of law mentioned above.

Exhibit A-41. Objected to as a signed ballot. This ballot is shown to match coupon No. 7468 and in the registry list of voters it is shown that this was issued to one "Lorenzo Lagan". The same name also appears on line 2 for senators. We have compared the signature of this voter in the registry list for this precinct and the signature appearing on the ballot on the space stated above and we are convinced that this voter deliberately signed his name on his ballot. It is therefore rejected in accordance with the decisions of the Supreme Court and our own rulings [*Kempis vs. Bautista*, G. R. No. L-2221 (1948), 46 Off. Gaz., Supp. 1, p. 229; *Ochoa vs. Calo*, ETHR Case No. 9].

* Objected to for the second time

Exhibits A-36, A-38, A-39, A-40, A-42 and A-43. These ballots are objected to as marked for containing words written in the local dialect on some of the spaces provided for individual candidates.

There is no showing that the words thus written are indecent, immoral, insulting or derogatory in character or that they are inherently irrelevant on the ballot. In all these ballots, the protestant is clearly voted for on the space for representative. Considering the general rule in favor of an interpretation of a ballot with a view to giving it effect as against an interpretation which would nullify the same, and in order to give due course to the unmistakable will of the voter, the Tribunal has chosen to accept these ballots as valid votes for protestant. Speaking on a case in point, the Honorable Supreme Court said:

"The remaining five ballots V-642, wherein 'Bonifacio Fabila Basoka' appears voted for councilor; V-670, wherein 'Blas Farfil Viva' appears voted also for councilor; V-672, wherein the voter, in voting for Nemesio Rubino as mayor, added to that name the words 'guid acon'; V-1325, wherein 'Canoto Abogago' appears voted for member of the provincial board and 'Antonio Bianson Abogago' appears voted for councilor; and V-1440, wherein 'Agong Ymportante' appears voted for mayor, and in each of which the appellant was unmistakably voted for governor, were improperly rejected by the Court of Appeals as marked ballots, * * *."

* * * * *

"In F-141, the voter wrote on the fourth line for councilor the words 'Dedum Para mapa', and in F-143, on the third line for councilor, the words 'Didong para numbag'. The word 'Dedum' or 'Didong' might have been intended for the candidate for councilor named Candido Arangote. The additional words 'para mapa' and 'para numbag' are said to mean 'fond of boxing' * * *. In any event, if the name or words do not constitute a valid vote for Candidate Candido Arangote, they are not, in our opinion, sufficient to invalidate the clear vote for Tobias Fornier for governor". (Villavert vs. Fornier, S. C.—G. R. No. L-3050, promulgated on Oct. 17, 1949.)

In view of the foregoing rule, all above ballots are hereby admitted.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	8	Uncontested	64
Admitted	22	Admitted	9
Total	30	Total	73

PUERTO PRINCESA—Precinct 4

After revision by counsels, the protestant waived all his objections to ballots of protestee contained in the re-

visors' report. The latter maintained his only objection in the revisors' report and added 10 more, making a total of 11 out of 34 ballots credited to protestant. The total votes of protestee is 54, all uncontested.

Exhibit A-1. This ballot is objected to as illegible. The handwriting on this ballot appears to be written by a poor hand but it reads "Liberal". The ballot is admitted.

Exhibits A-3 and A-4. Objected to as written by the same hand. The objection is without merit and the ballots admitted.

Exhibits A-5 and A-6. Objected to on the same ground as above; both ballots are admitted on the same finding of fact.

Exhibits A-7 and A-8. The objection that these ballots were written by the same hand is without merit. Both ballots are admitted.

Exhibits A-9 and A-10. These ballots were written by different hands. They are therefore admitted.

Exhibits A-11 and A-12. These ballots were not prepared by the same hand as alleged. Both are admitted.

Summarizing, we find the standing of the parties in this precinct is as follows:

ESPAÑOLA		ABORDO	
Uncontested	23	Uncontested	54
Admitted	11	Admitted	0
Total	34	Total	54

PUERTO PRINCESA—*Precinct 15*

After revision by counsels, protestee objected to 29 of 53 ballots for protestant and the latter objected to 5 of 61 ballots for the former. Protestee claimed one more ballot from the white box.

Exhibit E-1. This ballot is objected to as stray for protestee because the name written on the proper space is "C. Aberdo". It is contended that this is an erroneous initial following an erroneous surname.

The ballot is admitted under paragraph 6 in relation to paragraph 1 of section 149, Revised Election Code. In the case of Confessor *vs.* Lutero, Case No. 15, we have admitted for Patricio Confessor ballot C-2, Precinct 2, Cabatuan, wherein "E. Comp." was written.

Exhibits E-2, E-3, E-4 and E-5. These ballots are alleged to have been prepared by voters who were minors. The protestant having withdrawn his objection in his memorandum, they are admitted as valid votes for protestee.

Exhibits A-1 and A-2. These ballots are objected to as marked, allegedly for containing nicknames of certain candidates voted for senators. Protestant is correctly vo-

ted. The objection is untenable and the ballots admitted under paragraph 9, section 149, Revised Election Code.

Exhibits A-5 to A-31. These ballots are objected to as marked, allegedly for containing thin lines around the spaces for block voting. We have not been able to locate said thin lines despite our effort to this effect, but even assuming this to be true, said lines do not in any way affect the validity of the ballots. All the ballots are hereby admitted.

Exhibit A-3. This ballot is from the white box and is claimed by protestee as valid vote for him for containing the word "Nacionalista" in the proper space, notwithstanding the appearance of a name of a non-candidate on one of its spaces. Following our previous rulings in this case this ballot is hereby admitted as a vote for protestee.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	24	Uncontested	56
Admitted	29	Admitted	6
Total	53	Total	62

PUERTO PRINCESA—Precinct 26

After revision by counsels, the protestant waived his objections to the ballots of the protestee made during the revision by the Tribunal's revisors; the protestee, on the other hand, objected to 8 of 38 ballots for protestant in this precinct. The protestee is credited with a total of 13 votes, all uncontested.

Exhibit A. This ballot is objected to on the ground that the only word appearing in the space for party voting is illegible. The objection is untenable for we have deciphered the alleged word to read "Liberal, Quirino". The ballot is therefore admitted.

Exhibit A-1. Objected to as a marked ballot for containing a letter after each name of the candidates individually voted for. The candidates voted for by this voter appear to belong to the three political parties then contending in that election. The Tribunal is of the opinion that this circumstance does not constitute mark on the ballot for identification. It only shows a manifestation of the party preference of the voter and may even be remotely considered germane to the vote. The ballot is hereby admitted.

Exhibits A-2 and A-3. These ballots are objected to as prepared by the same hand. The objection is well taken for we have found them to be as alleged. Both ballots are rejected.

Exhibit A-4. The objection to this ballot having been withdrawn by the protestee, the same is hereby admitted.

Exhibit A-6. This ballot is objected to on the ground that the word appearing in the space for party voting is illegible. No other word appears on the face of the ballot. The contention is not true, for the word in question easily reads "Liberal". Admitted.

Exhibits A-7 and A-8. Both ballots are rejected since they were prepared by the same hand as contended.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	30	Uncontested	13
Admitted	4	Admitted	0
<hr/>		<hr/>	
Total	34	Total	13

TAYTAY—Precinct 6

After revision by counsels, the protestant objected to 1 of 46 ballots for the protestee. The former further claimed 2 more ballots from those unadjudicated to any candidate—1 from the valid box and the other from the red box. The protestee did not object to any of the 18 ballots for the protestant but claimed 1 more from the red box.

Exhibit E-1. This ballot is objected to as stray as the word written in the space for party voting has been erased and is illegible according to protestant. The contention is not true for what has been erased was a previous word written; the present one appearing, though in poor hand, reads "nacionalista". The ballot is admitted.

Exhibit E-2. This is a ballot from the valid box and is claimed by the protestant as a valid vote for him for containing in the space for party voting the words "Liberal Party" with a capital letter "A" separated by two asterisks immediately after the last word. We are of the opinion that the capital letter "A" indicates the will of the voter to vote for the Avelino Wing of the Liberal Party or makes the intention of this voter very doubtful. In coming to this conclusion, the Tribunal has been guided by the circumstances that in this precinct the predominant votes were cast for the Avelino Wing of the Liberal Party. The ballot is rejected.

Exhibit E-3. This ballot is from the red box, but the evidence of record shows that it is not "spoiled". The protestant claims this ballot as a valid vote for him for containing in the space for party voting the words "Quirino Wing" which are the only ones appearing on the ballot. The contention is well taken and the ballot is admitted.

We have adjudicated ballots of this nature in our previous rulings (Fernandez *vs.* Baes, ETHR Case No. 23, F and F-1, P-8, Lumban).

Exhibit A-1. This ballot is from the red box, but the evidence of record shows that it is not "spoiled". The protestee claims this ballot as a valid vote for him for containing in the proper space for party voting the letters "Nac", the only word written on the ballot. According to him it is *idem sonans* to "Nacionalista". The Tribunal decided to admit this ballot for it is believed that the word written sufficiently expressed the will of the voter and this ruling is in consonance with the known theory of interpreting the ballot in favor of its validity. Besides, in a previous ruling we made we have accepted abbreviations as valid votes. The ballot is therefore admitted (Confessor *vs.* Lutero, ETHR Case No. 15; Fernandez *vs.* Baes, ETHR Case No. 23).

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	18	Uncontested	45
Admitted	1	Admitted	2
Total	19	Total	47

COUNTER—PROTEST BROOKES POINT—*Precinct 7*

At the pre-trial, the protestee objected to all the 48 ballots for the protestant and waived his claim to ballot A-49 as a valid vote for him. The protestee received no valid vote in this precinct.

The protestee asked for the annulment of the result of the election in this precinct because, according to him, irregularities of ample magnitude have been committed that 40 percent of the total votes cast are illegal. As evidence in support of this contention, protestee presented a fingerprint expert who testified that a total of 8 ballots, in two groups of 6 and 2 ballots, respectively, bear coupons with common fingerprints on them. These are the coupons matched to ballots Exhibits A-2, A-14, A-17, A-21, A-26 and A-42 for the first group and A-18 and A-19 for the second group. For the same reason that we have rejected ballots of this nature in Precinct 5 of Agutaya, the preceding mentioned ballots are also rejected.

Under the same legal principle stated in connection with the issue raised in Precinct No. 5 of Agutaya, the Tribunal decides to deny the annulment of this precinct. We proceed to consider the ballots individually in the light of the objections entered and the evidence relied upon in support of each objection.

Exhibits A-12 and A-39. These ballots are objected to as illegal and irregularly prepared because the fingerprints appearing on their detachable coupons are not identical to those of the voters in the list to whom the ballots were issued. The Tribunal rejects both ballots.

Exhibit A-1. This ballot is objected to as marked for containing in some spaces for senators names of non-candidates. Protestant is properly voted for. This member is personally of the opinion that this ballot should be admitted for the protestant to be consistent with the ruling in similar cases preceding. The majority of the Tribunal, however, is of the opinion that the ballot should be rejected. Ballot A-1 is therefore rejected.

Exhibits A-2,* A-3, A-8, A-11 and A-15 are 4 ballots. This group of ballots is objected to as prepared by one hand. The objection to them is well taken and they are rejected.

Exhibits A-7, A-12* and A-13. The same objection is entered against these ballots. They are likewise rejected having been found to be as alleged.

Exhibits A-4, A-5, A-6, A-9 and A-10 are 5 ballots. They are rejected as prepared by the same hand.

Exhibit A-41. This ballot is objected to as marked for containing the name of non-candidate on line 7 for senators. The protestant is properly voted for. Rejected for the same reason given with respect to Exhibit A-1, above.

The rest of the ballots of the protestant, a total of 25, have not been objected to on any specific ground. We therefore admit all of them.

Exhibit E-2. This ballot is from the red box. There having been no evidence to show that the ballot is not spoiled, the same is hereby rejected.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	0	Uncontested	0
Admitted	25	Admitted	0
Total	25	Total	0

CORON, Precinct 2

During the pre-trial, the protestant withdrew his objections to 8 of the originally objected 9 out of 120 ballots for the protestee. The latter objected to 4 of 112 ballots for the former.

Exhibit E-6. The objection to this ballot having been withdrawn by the protestant in his memorandum, same is hereby admitted.

* Objected to for the second time.

Exhibits A-1, A-2 and A-3. All these ballots are objected to as marked for containing in some spaces for individual candidates names of persons who have not filed their certificates of candidacy. In all of them the name of the protestant appears in the space for representative. All these ballots are admitted under paragraph 13, section 149, Revised Election Code.

Exhibit A-5. This ballot is objected to as prepared by two hands. The contention is not true since the ballot has been found to have been prepared by only one person. Admitted.

Summarizing, we find the standing of the parties in this precinct are as follows:

ESPAÑOLA		ABORDO	
Uncontested	108	Uncontested	119
Admitted	4	Admitted	1
Total	112	Total	120

CORON—Precinct 4

During the pre-trial, the protestant finally objected to 4 of the ballots for protestee. The latter objected to 19 of 92 ballots for the former. Both parties claimed a common ballot from the white box. Protestant claimed another more from the red box.

Exhibit E-1. This ballot is objected to as insufficient to identify protestee's party because the word written in the proper space reads "Narionalula". We hold this word to be *idem sonans* to Nacionalista and therefore admit the ballot for the protestee.

Exhibits E-2, E-4 and E-5. These ballots are objected to on same ground because the words written in the proper space read "Naclasta," "Naciontesk" and "Naci Alsita", respectively. We hold the same ruling as in ballot E-1, above. The ballots are therefore admitted.

Exhibit E-21. This ballot is from the white box. Both parties claim it as a valid vote for each of them because the words written reads either "Lavral or Labral Parti". Protestee maintains that the word written is *idem sonans* to "Laurel", presidential candidate of the Nacionalista Party, while protestant says that same words are *idem sonans* to "Liberal Party" of which he was the official candidate for representative.

The Tribunal is of the opinion that the contention of the protestant is well taken and therefore adjudicates this ballot as a valid vote for him. Ballot admitted for protestant.

Exhibit A-1. This ballot is objected to as marked for being signed by voter Alejo Aguas on line 2 for senators. We have compared the signature of this voter in the

list and that appearing on the ballot and are convinced that the ballot was in fact signed by this voter. It is therefore rejected. (Kempis vs. Bautista, *supra* and Ochoa vs. Calo, *supra*.)

Exhibit A-9. This ballot is objected to for being signed by voter Gelasio Calingao on the space for president. Under the same finding of fact and authority stated above, the ballot is rejected.

Exhibit A-11. The same objection is interposed against this ballot for containing the signature of Ramon Aguas on line 1 for senators. Under the same finding of fact and authority stated above, the ballot is rejected.

Exhibit A-16. The same objection is entered against this ballot for being signed on line 3 for senators by voter Fely Valmonte. We have found the objection well founded, and, under the same authority stated above, reject this ballot.

Exhibits A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-10, A-12, A-13, A-14, and A-15 are 12 ballots. The objection entered against these ballots is that all of them are marked. All these ballots have been block voted but in each one a space is filled with the name of a voter or of a person who was not a candidate. After deliberating on the matter, the Tribunal reached the conclusion that there was a concerted agreement among the voters involved to mark or identify their votes in the manner indicated on their ballots. We therefore sustain the objections of the protestee and reject all of them.

Exhibits A-18, A-20 and A-21. These ballots are objected to as marked for containing in some of the spaces for senators names of non-candidates.

In all of these ballots the candidates were individually voted for. Protestant's name also appear in the proper spaces for representative.

All the said ballots are admitted (paragraph 13, section 149, Revised Election Code).

Exhibit A-21. (It appears that there are two different ballots marked A-21. We have noted this fact in our consideration of this precinct.) This is the same ballot as the protestant's Exhibit E-21. We have already considered the same in connection with our discussion of Exhibit E-21, above. This is rejected as a vote for the protestee since we have already adjudicated this same ballot as a vote for protestant.

Summarizing, we find the standing of the parties in this precinct to be as follows:

ESPAÑOLA		ABORDO	
Uncontested	73	Uncontested	65
Admitted by Tribunal	4	Admitted by Tribunal	4
Total	77	Total	69

CORON—Precinct 13

After final revision, the protestant waived his only claim from among the unadjudicated ballots in this precinct: He entered no objection to any of the 4 ballots for the protestee. The latter objected to 41 of 66 ballots for the protestant.

A-1. This ballot is objected to as marked for containing on line 3 for senators syllables of names of non-candidates. Protestant appears properly voted on the correct space. Admitted (paragraph 13, section 149, Revised Election Code).

Exhibit A-2. This ballot is objected to as prepared by two hands. The allegation is not true. The ballot appears to have been prepared by a single person. Admitted.

Exhibit A-38. The objection to this ballot having been withdrawn by the protestee in his memorandum, the same is hereby admitted for protestant.

Exhibit A-39. This ballot is objected to as marked for containing the name "Elpidio Quirino" in the space for party voting. The candidates are individually voted for and the name of the protestant appears in the proper space. The ballot is hereby admitted.

Exhibit A-40. This ballot is objected to as marked. This is identical to above stated ballot, except that what is written in the space for party voting is "Nacionalista". Since the name of the protestant appears on the proper space, the vote is hereby admitted for him (paragraph 20, section 149, Revised Election Code).

Exhibits A-31, A-11, A-34, A-10, A-35, A-8, A-13, A-16, A-7, A-41, A-27 and A-24 are 12 ballots. These group of ballots are objected to as prepared by one hand. The objection is not well taken with respect to A-8 and A-24 which were prepared by different hands and are therefore admitted. The rest are as alleged and therefore rejected.

Exhibits A-19, A-20, A-31, A-21, A-22, A-32, A-42 and A-18 are 8 ballots. A-42 is hereby admitted for being prepared by a different hand. The rest are rejected for being written by only one hand. In this group we find that the designation A-31 has been duplicated since another ballot in a preceding group, which we have already rejected, also bears the same number designation. We take notice of this fact in the computation of the votes received by the parties in this precinct.

Exhibits A-30 and A-29. These ballots were not prepared by one hand as alleged and are therefore admitted.

Exhibits A-3, A-9, A-17, A-43 and A-12 are 5 ballots. These ballots are all admitted because they were prepared by different persons.

Exhibits A-26, A-25, A-44, A-45, A-5 and A-46 are 6 ballots. We have examined these ballots and found each of them to have been prepared by a distinct voter. All are admitted.

Exhibits A-23, A-36 and A-37. The contention that these ballots were prepared by the same hand has no merit. All are hereby admitted.

Summarizing, we find the standing of the parties in this precinct to be as follows:

ESPAÑOLA		ABORDO	
Uncontested	25	Uncontested	4
Admitted	24	Admitted	0
<hr/>		<hr/>	
Total	49	Total	4

CUYO—Precinct 19

During the pre-trial, the protestee objected to 72 of 87 ballots for the protestant. The latter, in turn, objected to 6 of 48 ballots for the former.

Exhibits E-1, E-2, E-3, E-4, E-5 and E-6 are six ballots. These group of ballots are objected to as marked for containing (all on line 2 for senators) the names Evangelista, Evangelista, Paula, Star, Enia and Enia T., respectively. The name of protestee appears written on the proper space on each of these ballots.

The Tribunal is of the opinion that the objection is not well taken. All the ballots are therefore admitted under paragraph 13, section 149, Revised Election Code.

Exhibits A-1, A-3, A-4, A-6, A-7, A-9, A-10, A-11, A-12, and A-13 are 10 ballots. These ballots are objected to as marked and for identical reasons as those stated above. Under the same legal principle we find the objections here untenable. Exhibits A-4 and A-7 are further objected to for having been prepared by voters without the necessary residence qualifications. This we also find to be not well taken as discussed further below. The additional objection that Exhibit A-7 was written by one hand with a group of several other ballots is likewise without basis. All these 10 ballots are therefore admitted.

Exhibit A-36. This ballot is objected to as prepared by two hands; one writing "Nacionalista" and the other "Española." The objection is without merit. The allegation is belied by the handwriting on the ballot. Admitted.

Exhibit A-58. Objected to as marked for containing a small violet ink spot on the space for representative. We have found this alleged mark to be an accidental stain from the ink on the stamp pad for thumb printing. The objection is flimsy. Ballot admitted.

Exhibits A-2, A-4,* A-5, A-7,* A-8, A-17, A-19, A-22, A-23, A-24, A-27, A-28, A-30, A-31, A-32, A-39, A-40, A-42, A-44, A-45, A-48, A-59, A-60, A-61, A-64, A-65, A-66, A-67, A-68, A-77, A-78, A-79, A-80, A-83 and A-87 are 35 ballots. These ballots are objected to on the ground that they were prepared by voters who did not have the necessary residence qualification to vote.

It appears that in this precinct a total of 41 voters registered and placed on their voters' affidavits on the spaces provided for residence, places other than the municipality on which this precinct is located. Thirty-five of the total 41 are the ones now at issue. The rest have not been objected to, but protestant submitted their voters' affidavits as evidence and according to him the voters concerned voted for protestee.

"Our law requires that to be a voter a person must have been a resident of the Philippines for one year and of the municipality in which he offers to vote for six months next preceding the day of voting. It is provided in the law, however, that as in the case of age, when a person does not have at the time of registration the requisite qualification as to the period of his residence in the municipality, he can be registered if it be shown that on the date of the election he will have such qualification." (Laurel on Election, 2nd Ed., pp. 159-160.)

The qualification of a voter is determined as of the day of election and not on the day of his registration. It is enough for registration purposes that one can prove his qualification to vote by the time the election is held. Thus a person who can show that by the time of election he will have completed 21 years may be registered although at the time of registration he may not have such age requirement. What then shall be stated as his age in his voter's affidavit? Shall it be the age required of him by law to qualify as a voter? Our law on the subject is section 109, Revised Election Code, the pertinent portion of which provides:

"Every person desiring to be registered in the list of voters shall, under oath taken before the board of inspectors, sign and affix the imprint of the thumb of his right hand to a statement in triplicate, wherein he shall state: His * * * age on his last birthday; * * *"

Clearly then the voter, in the example given above, should state as his age on his voter's affidavit that he is 20 years and not 21 years. Since age and residence qualifications are both determined by a period of time and computed as a legal requisite for voting on the day of election and not on the day of registration, what then, may we ask, should be stated as the residence of one applying for registration if at the time he has not the required

* Objected to for the second time.

qualification but will have it on the day of election? By analogy to the above stated provision of law with respect to age, we are of the opinion that the applicant may rightly place on his voter's affidavit his last legal residence prior to his transfer to the municipality in which he offers to register. While it is true that the duty to prove one's qualification as a voter is incumbent upon him who applies, it is equally reasonable to suppose that the officers of election have complied with their duties in ascertaining that the persons they register as voters in fact possess such qualifications. It is most logical to infer, therefore, that in the case at bar the election officers have done what is required of them to do and that the voters they have registered and whose votes are now at issue in fact possessed of the qualification of a voter.

Moreover, even assuming that the voters whose votes are now questioned did not in fact possess the residence required of them by law to vote in this municipality as shown on their voters' affidavits, the protestee had legal remedies which he could have availed of. For instance, the protestee, his representative, his watcher, or his party member in the board of inspectors could have challenged the right of these voters to register on the day of their registration under Section 115 of the Revised Election Code. Or if that were not possible, the protestee or any of his followers or sympathizers among the voters could have filed an application for the exclusion of the voters in question within 20 days next following the last day for registration in that election. Nothing to this effect was done at all and consequently we believe it is too late now to question the legal effect of their votes. The legislature has expressly provided by law the manner in which this alleged irregularity could have been corrected and it is not for this Tribunal or any court of justice to substitute its judgment for the intent of the law making body. For if we are to accept the protestee's contention now, this would, in effect, nullify the provisions of our law on elections relative to challenges and exclusions of non-qualified voters embodied in sections 115 and 121 of the Revised Election Code, and would lead us to the inevitable and tragic consequence of unending litigations in election cases. To prevent this is precisely the reason for the law.

Furthermore, this Tribunal has consistently ruled that in an election contest proceeding, the registry list, as finally corrected, is conclusive in regard to the question as to who has the right to vote in an election. This is the law as embodied in section 176(f) of the Revised Election Code and we have applied it in all cases that have come before us and whenever its application is appro-

pritate. The reason for the law is to avoid multiplicity of issues in election contests, and it is precisely for this same reason that we have availed of its application in the cases we have come to consider. In the case of *Fernandez vs. Baes*, ETHR Case No. 23, the protestee raised the validity of the votes cast by some minors who succeeded in registering in the list. The evidence of record showed that said minors were actually prosecuted and about 14 of them had already been convicted at the time the validity of their votes were considered. This Tribunal, in upholding the validity of the ballots of said minors, said:

"A minor who succeeds in registering as a voter and who actually votes in an election subjects himself to criminal prosecution for illegal registration and voting under section 140 of the Election Code, but his ballot will have to be counted because, as we have already stated, in connection with Exh. E-104 of precinct No. 1 of Lilio, under paragraph (f) of section 176 of the same Code, the registry list, as finally corrected by the board of inspectors, is 'conclusive in regard to the question as to who had the right to vote in said election.'" (*Fernandez vs. Baes*, supra, pp. 189-190.)

The Honorable Supreme Court, in a case involving the alleged lack of qualification of certain voters, said:

"Where alleged illegal votes were cast in a certain district, as they were not challenged during the legal period, any evidence to show that these voters were registered and they voted although not possessing the necessary qualifications is immaterial." (*Fernandez vs. Mendoza*, 57 Phil., 689.)

It is our opinion that this objection of protestee on these ballots is not well taken. The Tribunal, therefore, admits all these 35 ballots for the protestant.

Exhibits A-46, A-20, A-38, A-15, A-75, A-80*, A-7*, A-68*, A-61*, A-67*, A-42*, and A-79*. These group of ballots are objected to as prepared by the same hand. We have examined each of these ballots carefully and we are convinced that they were prepared by distinct hands. We have also noted that on the day of election in this precinct, protestant or his party was not represented in the board of election inspectors as shown on the minutes of proceedings of the board. This fact however, was not taken into account in the appreciation of the ballot-exhibits. The Tribunal has been guided solely by the ballots themselves in the consideration of the merits of the objections interposed by the parties. All the above ballots are hereby admitted.

Exhibits A-49, A-29, A-51, A-76, A-81, A-16, A-25, together with A-32*, A-30*, A-28*, A-87*, A-77*, A-65*, A-64*, A-24*, A-17* and A-27*. The same objection is

* Objected to for the second time.

* Objected to for the second time.

made to this group of ballots. After a careful examination of each of the ballots, we have come to the conclusion that all of them were written by different hands. All are therefore admitted.

Exhibits A-47, A-71, A-37, A-70, A-85 and A-69, are 6 ballots. The objection that these ballots were prepared by one person is clearly untenable. These are individually prepared by distinct hands. All are hereby admitted.

Exhibits A-41, A-82, A-34, A-52, and A-33, are 5 ballots. The same objection is reiterated against this group of ballots. The contention is not true and the ballots are admitted.

Exhibits A-14, A-72 and A-74. All these ballots are admitted because they were prepared by distinct hands.

The objection on Exhibit A-86, not having been discussed by the protestee in his memorandum, is considered withdrawn. The ballot is admitted.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	15	Uncontested	42
Admitted	72	Admitted	6
Total	87	Total	48

DUMARAN—Precinct 1

At the pre-trial, 109 of 138 ballots for the protestant was objected to by the protestee. The former objects to 28 of 92 ballots for the latter. The protestant and the protestee have each one more claim from among those unadjudicated ballots in the white box.

Exhibit E-1. This ballot is objected to as marked for containing on lines 2 and 3 the names of "F, Tabang" and "C Castillo", respectively. The name of the protestee appears in the proper space for representative. Ballot admitted under paragraph 13, section 149, Revised Election Code.

Exhibit E-6. Objected to as not sufficiently identifying the protestee's party. The word on the space for party voting reads "Nacionalised". This Tribunal believes that this is *idem sonans* to the word "Nacionalista" of which the protestee was the official candidate. Ballot admitted.

Exhibit E-7. Objected to on the same ground as stated above. The word written in the proper space is "nacion-mita". The Tribunal holds that this is *idem sonans* to the word Nacionalista. Ballot admitted.

Exhibit E-8. The ground of objection to this ballot is the same as stated above. The protestant reads the word written to be "Yais nalista". It is obvious that this is *idem sonans* to the word Nacionalista, a valid vote for protestee. Ballot is admitted.

Exhibits E-9 and E-10. Objected to as prepared by the same hand. Both ballots are admitted since they are found to be not as alleged.

Exhibits E-11, E-12, E-13, E-14, E-15, E-16, E-17, E-18 and E-32 are 9 ballots. This group of ballots are objected to as prepared by one hand. We have each of the ballots carefully examined and have found that ballots E-11, E-12, E-18 are written by distinct persons and they are all admitted. Exhibits E-13, E-14, E-15, E-16, E-17 and E-32, however, show that they are prepared by one hand. These 6 ballots are therefore rejected.

Exhibits E-19, E-20, E-21 and E-22. In this group, E-19 and E-22 are admitted as being prepared by a distinct hand. E-20 and E-21, however, have been found to have been prepared by just one person and are therefore rejected.

Exhibits E-23, E-24, E-25 and E-26. Admitted for the protestee. These ballots are prepared by distinct hands.

Exhibits E-27 and E-28. Admitted for being written by distinct hands.

Exhibits E-29, E-30 and E-31. These ballots are also admitted. Careful examination of the ballots does not sustain the objection that they were prepared by the same hand.

Exhibit E-3. This ballot is from the white box and is claimed by the protestant for containing the words "Liberal Party" in the space for party voting. On line 1 however, for senators, appears the word "lasda". The protestant contends that the last word written being a name of a non-candidate, the ballot is not annulled and constitute a valid vote for protestant. The word written in the space for senators is *idem sonans* to Legarda, a candidate for that office. Consequently, the block vote is annulled under section 149, paragraph 20 of the Revised Election Code.

The ballot therefore is rejected as a vote for protestant.

Exhibits A-27, A-67, A-15, A-61, A-68, A-64, A-66, A-62, A-63, A-20, A-122 and A-60 are 12 ballots. This group of ballots are objected to as prepared by one hand. We have gone over each one of them and we are fully convinced that they are not prepared as alleged in the objection. All the ballots are therefore admitted.

The Tribunal noted that in this municipality, 2 of the 3 inspectors in each precinct were appointed at the instance of well known leaders of protestee. The evidence submitted by protestant on this point stands unrefuted. In the consideration of the merits of the objections entered, however, we have relied solely on the ballots themselves.

Exhibits A-121, A-53, A-12, A-52 and A-54 are 5 ballots. Objected to on the same ground and the ballots are admitted under the same finding of fact as stated above.

Exhibits A-22, A-1, and A-18. In this group, A-22 is admitted because it is evident that it was written by a different hand. The last two however have been found to have been prepared by only one hand and are therefore rejected.

Exhibits A-3, A-11, A-4 and A-94. Objected to under the same ground as stated above. The allegation is not true and the ballots are hereby admitted.

Exhibits A-6, A-19, A-82, A-75, A-72, A-116, A-117, A-88, A-87, A-5, A-32 and A-123 are 12 ballots. These ballots are said to have been prepared by only one hand. We have examined them and we are fully convinced that each of them was prepared by a different voter. All the ballots are therefore admitted.

Exhibits A-2, A-86, A-93, A-45, A-16, A-71, A-25, A-92, A-33, A-44 and A-9 are 11 ballots. The objection to these ballots is also that they were prepared by the same hand. It is patent on the face of each of them that the objection is untenable. All the ballots are therefore admitted.

Exhibits A-90, A-70, A-83, A-41, A-118 and A-28 are 6 ballots. All the ballots in this group have been found to have been prepared by distinct hands. All of them are therefore admitted.

Exhibits A-119, A-95, A-120 and A-8. Objected to as prepared by one person. The objection is clearly untenable. All the ballots are therefore admitted.

Exhibits A-38, A-50, A-46, A-35, A-37, A-43, A-34, A-56, A-47, A-51 and A-39 are 11 ballots. The objection that the ballots in this group are prepared by the same hand has no merit; they are not found to be so prepared. The ballots are therefore admitted.

Exhibits A-24, A-29, A-30, A-31, A-91, A-55, A-48, A-79, A-42, A-26, A-7, A-21, A-10, A-57, A-58, A-80 and A-17 are 17 ballots. It is patent on the faces of these ballots that they were prepared by different persons. All the ballots in this group are therefore admitted.

Exhibits A-14, A-13, A-81, A-23, A-77, A-69 and A-78 are 7 ballots. The ballots in this group are found to have been prepared by different persons. The allegation therefore that they were prepared by only one hand is not true. All the ballots in this group are admitted.

Exhibits A-49, A-74, A-36, A-84, A-73, A-89, A-40 and A-85 are 8 ballots. They are objected to as prepared by one person. We have found that each of these is prepared by a different voter. All the ballots are therefore admitted.

Exhibits A-76 and A-65. Both ballots are admitted; they were written by different persons.

Exhibits A-100 and A-114. These ballots are found to be products of distinct hands. Both are therefore admitted.

Exhibits A-101 and A-102. The allegation that both ballots are prepared by the same hand is not true. Both are therefore admitted.

Exhibit A-109. The objection to this ballot is based on the ground that it was signed by voter "Amando Mardacas" on line 2 for senators. There is no evidence aliunde submitted in support of this contention. Admitted.

Exhibit A-110. This ballot is objected to on the ground that it is marked for containing on the space for senators the words "Quirino Liberal Party". In the proper space of this ballot is written "Liberal Quirino". In accordance with our previous rulings the words thus written on the space for senators do not constitute a mark on this ballot. It is therefore admitted (*Fernandez vs. Baes*, ETHR Case No. 23).

Exhibit A-115. This ballot is objected to on the ground that it was prepared by two hands. It is claimed that the word "Liberal Quirino" on line for President and Q. Paredes on line for senators are written by a person other than the one who wrote "F. Lopez" and "S. Española" on the spaces for Vice-President and representative, respectively. Even a cursory comparison of the handwritings on this ballot would suffice to show the untenability of protestee's contention. The ballot is therefore admitted since it was prepared by one hand.

Exhibit A-111. This ballot is from the box for valid ballots. It is claimed by the protestee as a valid vote for him because opposite the printed title of office (representative) in the column of the Nacionalista candidates appear the name "Abordo". The Tribunal is of the opinion that the intention of the voter to vote for protestee is clearly manifested in this ballot and it is therefore admitted. (*Fernandez vs. Baes*, ETHR Case No. 23; *Ombra vs. Rasul*, ETHR Case No. 38.)

Exhibit A-113. This ballot is also from the valid box. It is claimed by the protestee as a valid vote for him for containing the word Nacionalista immediately below the printed title "Nacionalista Party" in the printed column of official candidates of that party. Admitted.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	29	Uncontested	64
Admitted	107	Admitted	20
Total	136	Total	84
Pending	1	Pending	1

DUMARAN—*Precinct 8*

As finally revised, the protestee objected to 56 out of 86 ballots for the protestant, while the latter objects to 3 out of 21 ballots for the former. The protestant claims as valid vote for him 1 more ballot from the red box.

Exhibits E-1 and E-2. Objected to as prepared by the same hand. The objection is well-taken and both ballots are rejected.

Exhibit E-3. Objected to as marked for containing in the space for President the word "Nacionalista". This same word also appears in the space for party voting. The ballot is admitted in accordance with our previous rulings (*Viola vs. Atienza*, ETHR Case No. 61).

Exhibit E-4.—This ballot is from the white box and is claimed by the protestant as a valid vote for him for containing on the space for representative the word "Liberal". This is the only one written on the ballot. The protestant claims that since he is the official candidate of the party the word written in the above space clearly indicates that it is intended for the candidates of that party or at least for him since this is written in the space for which he was a candidate. The contention is not well taken and the ballot is rejected in accordance with our previous rulings in cases of this nature (par. 19, Sec. 149, Revised Election Code).

Exhibit A-2. This is objected to as marked ballot for containing the syllable "La" before the word "Liberal" written in the space for party voting. We have examined the alleged mark and have found that this in reality is an attempt of the voter to write the syllable of the word he intended in the space for party voting. Having found that it is not the correct spelling, the voter desisted from continuing to write the whole word. It is clear therefore that this is not made for identification purposes. The further objection that this ballot was with other ballots written by only one person is also not substantiated by the examination we made. The ballot is therefore admitted.

Exhibit A-59. This ballot is objected to as marked for containing an alleged check mark before the word "Liberal" in the space for block voting. We have found the alleged mark to be an attempt by the voter to start a letter from which he later desisted. We further find that this ballot was not written with a group of other ballots by the same person. The ballot is admitted.

Exhibits A-17, A-16, A-15, A-48, A-32, A-49, A-50, A-31, A-51, A-30, A-28 and A-29 are 12 ballots. This group of ballots is objected to as prepared by one hand. We have scrutinized the handwritings appearing on each of them carefully and are fully convinced that each of these ballots was in fact prepared by a different voter. All of them are therefore admitted.

Exhibits A-14, A-34, A-13, A-12, A-52, A-39, A-38, A-40, A-11, A-42, A-18, A-35, and A-43 are 13 ballots. Objected to as prepared by one person. All these ballots are admitted since each one has been found to be prepared by a distinct hand.

Exhibits A-55, A-21, A-22, A-20, A-56, A-57, A-58, A-23, A-2,* A-59 * and A-19, are 11 ballots. The objection that the ballots in this group were prepared by the same person has no merit. We have found each one to have been prepared by a different voter. All of them are therefore admitted.

Exhibits A-53, A-54, A-7 and A-9. The objection that this group of ballots is prepared by one hand is untenable. We have found that the ballots were prepared by distinct hands. All of them are therefore admitted.

Exhibits A-47 and A-46. These ballots are objected to as prepared by one person. Both of them are admitted, the objection having no merit.

Exhibits A-45, A-6, A-10, A-5, A-44, A-37 and A-33 are 7 ballots. This group of ballots is objected to on the same ground as stated above and all of them are admitted on a similar finding of facts.

Exhibits A-3, A-27, A-28,* A-26 and A-41 are 5 ballots. We have examined these ballots and have found them to have been prepared by different persons. All of them are therefore admitted.

Exhibits A-24 and A-25. The objection that these ballots were prepared by only one hand is belied by the hand-writings on their faces. Both are therefore admitted.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	30	Uncontested	18
Admitted	56	Admitted	1
Total	86	Total	19

PUERTO PRINCESA—Precinct 1

During the pre-trial, the protestee finally objected to 56 out of 136 ballots for the protestant. The latter objected to 2 out of 52 ballots for the former.

Exhibit E. This ballot is objected to as not sufficiently identifying the candidate voted for since the word written on the space for party voting reads "Nacional". The ballot is admitted. We have consistently held that this word is *idem sonans* to "Nacionalista" (*Viola vs. Atienza*, ETHR Case No. 61).

Exhibit E-2. This ballot is objected to as stray for protestee because the name written on the space for re-

* Objected to for the second time.

* Objected to for the second time.

presentative being "Caudicio Abordo" does not sufficiently identify the protestee whose Christian name is Gaudencio. The objection is untenable because said Christian name written is *idem sonans* to that of the protestee's.

Exhibit A. This ballot is objected to as stray because, according to protestee, the word written in the space for party voting is illegible. We have however deciphered said word to read "Liberal", although in poor handwriting. The ballot is admitted.

Exhibit A-1. This ballot is objected to as marked for containing in the space for president the word "Liberal". This same word is also written in the space for party voting. These are the only two appearing on this ballot. We have repeatedly upheld the validity of ballots of this nature, both for protestant and protestee in this case, and in our previous rulings in cases of the same nature. The ballot is admitted.

Exhibit A-2. This is objected to as stray for the protestant. In this ballot, it is evident that there was an attempt by the voter to write the Christian name of the protestant which he finally desisted and instead wrote the word "Liberal" in the space for party voting. This only shows that the voter has changed his mind and has chosen to vote for all the candidates of the liberal party by writing the word "Liberal" on the space for party voting instead of voting for the protestant only. Ballot admitted.

Exhibit A-4. Objected to as stray because according to protestee the word written on the space for party voting is illegible. We have however easily deciphered said word to read "Liberal". The ballot is therefore admitted.

Exhibit A-5. This ballot is objected to as marked for containing the word "only" in parenthesis, after the words "Liberal Party" on the space for party voting. The Tribunal is of the opinion that this circumstance does not constitute a mark on the ballot. It simply means that the voter voted for the Liberal Party candidates only. The ballot is admitted.

Exhibits A-6, A-7, A-8, A-9, A-10, A-11, A-12, A-13 and A-14 are 9 ballots. This group of ballots is objected to as prepared by the same hand. A mere perusal of each of them shows that they were in fact prepared by different persons. All the ballots are therefore admitted.

Exhibits A-15 and A-16. Objected to as prepared by the same hand. We have found otherwise and the ballots are admitted.

Exhibits A-17, A-18, A-19, A-20, A-21, A-22, A-23, A-24 and A-25 are 9 ballots. The objection to this group of ballots is that they were prepared by the same hand. We have found the objection to be without merit with respect to ballots A-23 and A-24 and therefore reject both of them. All the rest are admitted since they have been found to have been prepared by different persons.

Exhibits A-26 and 27. It is patent on the faces of these ballots that they were prepared by different persons. Both are therefore admitted.

Exhibits A-28, A-29 and A-30. These ballots are found not to have been written by the same hand as alleged. All of them are therefore admitted.

Exhibits A-31, A-32, A-33 and A-34. These ballots are found to have been prepared each by a different person, contrary to protestee's allegation. All are admitted for protestant.

Exhibits A-35, A-36, A-37, A-38 and A-39 are 5 ballots. All of these ballots are found to have been prepared by distinct hands and therefore all are admitted.

Exhibits A-40 and A-41. The claim that these two ballots are written by the same hands is not true. Both are admitted.

Exhibits A-42 and A-43. Both of these ballots are also admitted for being prepared by distinct hands.

Exhibits A-44 and A-45. Objected to as prepared by the same hand. We have found that they are prepared by different hands. Admitted.

Exhibits A-46, A-47, A-48, A-49, A-50 and A-51 are 6 ballots. These ballots were not prepared by the same hand as shown on the faces of each hand of them. All of them are therefore admitted.

Exhibits A-52, A-53, A-54, A-55 and A-56 are 5 ballots. After an examination of each of these ballots, we are convinced that A-52 and A-54 were in fact prepared by only one person and therefore reject both of them. The rest are admitted as prepared by different hands.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA		ABORDO	
Uncontested	80	Uncontested	50
Admitted	52	Admitted	2
Total	132	Total	52

PUERTO PRINCESA—Precinct 13

After final revision at the pre-trial, the protestee objected to 40 of 44 ballots adjudicated to the protestant, as the latter objected to 6 of a total of 17 ballots for protestee. The protestant claimed 2 more ballots as valid votes for him while the protestee 29 more. All of these claimed ballots are from the white box.

Exhibit E-1. This ballot is objected to as insufficient to identify the party voted for. The word written on the proper space reads "Nagiourarta". We hold that this word is *idem sonans* to Nacionalista. Ballot admitted.

Exhibits E-2 to E-6. These ballots are objected to as prepared by one hand. We have gone over each of them and found otherwise. All are admitted.

Exhibit E-7. This ballot is from the white box. It is claimed as a valid vote for protestant for containing on the space for block voting the word "Liberal," the only one written on this ballot. It is clearly a valid vote and is hereby admitted for protestant.

Exhibit E-8. The protestant having waived his claim to this ballot as a vote for him, the same is hereby rejected.

Exhibit A-1. This ballot is objected to as illegible. We however decipher the word written on the proper space to read "Liberal." The ballot is admitted.

Exhibits A-16, A-12, A-14, A-15, A-20 and A-19 are 6 ballots. This group of ballots is objected to as prepared by the same hand. The objection is clearly untenable. All the ballots are therefore admitted.

Exhibits A-10, A-11 and A-13. They are not prepared by one person and are admitted.

Exhibits A-17 and A-18. Both ballots are rejected, having been found to have been prepared by one person.

Exhibits A-53 to A-56 are 4 ballots. The claim that these ballots were written by one person is not well taken. All these ballots are admitted.

Exhibits A-66 to A-72 are 7 ballots. All these ballots are admitted for, in the opinion of the Tribunal, they have been prepared by different person.

Exhibits A-51 and A-52. We found the contention that these ballots were prepared by one person to be not true and the ballots are admitted.

Exhibits A-61 to A-65 are 5 ballots. All these ballots are admitted, it appearing that they have been prepared by different voters.

Exhibits A-57, A-58, A-6, A-5, A-59, A-7, A-4, A-60, A-8 and A-9 are 10 ballots. They are objected to as prepared by one person. We have carefully gone over each one of them and are fully convinced that they were in fact prepared by different hands. All the ballots are admitted.

Exhibits A-21 to A-48 are 28 ballots. These ballots are claimed by protestee as valid votes for him for containing in the space for party voting the word "Nacionalista." Protestant interposes objection to the adjudication of these ballots in favor of the protestee for the reason that each one of them has either been initialled or signed by the respective voters to whom the ballots were issued. In support of his contention, protestant presented the deposition of one Hilario Manlavi, one of the voters in this precinct who testified that he himself has initialled his own ballot for the purposes of identifying his vote. The depositions of the inspectors for this precinct have likewise been presented and tend to establish the same fact. We have verified each of these ballots taking into account the matching test conducted, the signature appearing on the ballot and the signature of the voter concerned in the list,

Exhibit A-23. This ballot was initialled by Hilario Manlavi on line 1 for senators as shown by comparison with this voter's signature on line 62 of the list and by his own admission in his deposition.

Exhibit A-21. This ballot was initialled on line 4 for senators by voter Benjamin Manlavi as shown by a comparison with this voter's signature on line 72 of the list.

Exhibit A-22. This ballot bears the initials of Nicolas Manaeg as shown by the same signature of this voter on line 74 of the list.

Exhibit A-24. This ballot was initialed by voter Rosa Saban to whom it was issued as shown on line 91 of the list.

Exhibit A-25. This ballot was initialed by voter Lucia Edindin as shown on line 38 of the list.

Exhibit A-26. This ballot was initialed by voter Jose Crispin on line 1 for senators as shown by this voter's signature on line 27 of the registry list.

Exhibit A-27. This ballot was initialed by voter Maxima Cervantes on the line for president as shown by this voter's signature on line 18 of the list.

Exhibit A-28. This ballot was signed by voter Sabarao to whom it was issued as shown on line 99 of the list.

Exhibit A-29. This ballot was signed by voter Preciano Latube on line 2 for senators as shown by this same voter's signature on line 48 of the list.

Exhibit A-30. This ballot was signed by voter Julian Manlavi as shown by comparison with this voter's signature on line 65.

Exhibit A-31. This ballot was signed by voter Florencia Bonilla on line 2 for senators as shown by comparison with this voter's signature on line 17 of the list.

Exhibit A-32. This ballot was signed by voter Felipe Róquero on line 1 for senators as shown by comparison with this voter's signature on line 87 of the list.

Exhibit A-33. This ballot was signed by voter Eulogio Sabas as shown by a comparison with the said voter's signature on line 101 of the list.

Exhibit A-34. This ballot was signed by voter Rosita Alonso on line 4 for senators as shown by this same voter's signature on line 3 of the list.

Exhibit A-35. This ballot was signed by voter Fernando Dalisay as shown by a comparison with this same voter's signature on line 34 of the list.

Exhibit A-36. This ballot was signed by Anacleto Dadaeg as shown by comparison with this voter's signature on line 30 of the list.

Exhibit A-37. This ballot was signed by voter Victoriano Fabrao as shown by comparison with this same voter's signature on line 39 of the list.

Exhibit A-38. This ballot was signed by voter Jose Bentaca as shown by this voter's signature on line 13 of the list.

Exhibit A-39. This ballot was signed by voter Sabina Manlavi as shown by comparison with this voter's signature on line 67 of the list.

Exhibit A-40. This ballot was signed by voter Timoteo Magbanua as shown by comparison with this voter's signature on line 73 of the list.

Exhibit A-41. This ballot was signed by voter Juan Mondrana as shown by comparison with this same voter's signature on line 60 of the list.

Exhibit A-42. This ballot was signed by voter Juan Maraver as shown by comparison with the signature of this same voter on line 57 of the list.

Exhibit A-43. This ballot was signed by Olimpia Saba-rao as shown by this same voter's signature on line 97 of the list.

Exhibit A-44. This ballot was signed by voter M. D. Abayan as shown by a comparison with this voter's signature on line 8 of the list.

Exhibit A-45. This ballot was signed by voter Delfin Bongalso as shown by the signature of this same voter on line 15 of the list.

Exhibit A-46. This ballot was signed by voter Prisiano Bongalso as shown by comparison with the signature of this same voter on line 14 of the list.

Exhibit A-47. This ballot was signed by voter Teodoro Fresnillo as shown by comparison with this same voter's signature on line 41 of the list.

Exhibit A-48. This ballot was signed by voter Clemencia Fabrao as shown by comparison with this same voter's signature on line 42 of the list.

In accordance with our previous ruling on the matter and the accepted doctrine in this jurisdiction, all the above ballots are rejected as votes for protestee (*Kempis vs. Bautista, supra*, and *Ochoa vs. Calo, supra*).

Exhibit A-50. This ballot is from the white box. It is claimed by the protestee as a valid vote for him for containing certain character writings in the space for party voting. The Tribunal has not been able to decipher the meaning of the word nor has there been any expert used by the protestee for the purpose. We therefore consider the word written to be illegible. Besides, there is another writing on line 1 for senators which is also in characters and which is also undecipherable. In view of the above, this ballot is not adjudicated in favor of any candidate. It is therefore rejected.

Summarizing, we find the standing of the parties in this precinct as follows:

ESPAÑOLA			ABORDO		
Uncontested	4		Uncontested	11	
Admitted by Tribunal	39		Admitted by Tribunal	6	
Total	43		Total	17	

**SUMMARY OF VOTES OBTAINED BY THE PARTIES IN THE
PROTESTED AND COUNTER-PROTESTED PRECINCTS**

Precinct Number	ESPAÑOLA			ABORDO		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
PROTEST						
Agutaya						
1	18	0	18	64	42	106
2		53	53		162	162
3	0	47	47	94	45	139
4	22	5	27	113	44	157
5	0	29	29	6	126	132
6	7	0	7	0	62	62
Coron						
6	32	1	33	82	2	84
7	29	10	39	65	6	71
14	40	4	44	62	1	63
16	79	2	81	92	1	93
19	4	0	4	18	16	34
20	30	6	36	26	1	27
Cuyo						
9	113	6	119	140	0	140
13	15	14	29	85	5	90
14	28	12	40	79	0	79
16	8	22	30	64	9	73
Puerto Princesa						
4	23	11	34	54	0	54
15	24	29	53	56	6	62
26	30	4	34	13	0	13
Taytay						
6	18	1	19	45	2	47
COUNTER-PROTEST						
Brookes Point						
7	0	25	25	0	0	0
Coron						
2	108	3	111	119	1	120
4	73	4	77	65	4	69
13	25	24	49	4	0	4
Cuyo						
19	15	72	87	42	6	48
Dumaran						
1	29	107	136	64	22	86
8	30	56	86	18	1	19
Puerto Princesa						
1	80	52	132	50	2	52
13	4	39	43	11	6	17
Total	884	638	1,522	1,531	572	2,103

RECAPITULATION

	ESPAÑOLA	ABORDO
Uncontested	884	1,531
Admitted by Tribunal	638	572
Not revised Precincts	6,563	5,947
Grand Total	8,085	8,050
Grand Total for Española		8,085
Grand Total for Abordo		8,050
Plurality in favor of Española		35

Wherefore, we hereby declare the protestant, Sofronio T. Española, the duly elected Representative for the lone District of Palawan in the elections held on November 8, 1949, with a plurality of 35 Votes, with the right to assume said office. The protestee is hereby unseated and ordered to pay the protestant the costs of this protest. So ordered.

Padilla, Reyes, Angelo Bautista, Medina and Crisologo, members, concur.

RILLORAZA, M., dissenting:

It is always unpleasant to disagree with my brethren, for whose opinions I have the highest respect; and were there any doubts in my mind, I would gladly have accepted their judgment as worthier than mine. But the judgment of the majority of my brethren in this case seems to me to be clearly erroneous; it was the protestee and not, as my brethren rule, the protestant who was really elected to the office of Representative of the province of Palawan; and, as this case affects not only the parties hereto, but the people of Palawan as well, and it deals with what is the citizens' primary right in a democracy—their right to be represented by the man of their choice—conscience impels me to expose clearly and fearlessly what I consider to be the errors incurred in the majority opinion.

PROTEST

AGUTAYA—Precinct 6

In this precinct, there were 133 ballots for the protestee (Abordo), 121 of which were objected to by the protestant (Española) on the ground that they were written, in groups, by the same hand (Memorandum for the Protestant, pp. 183-186). Of these 121 ballots, 71 were annulled by the majority of the Tribunal; but at least 48 of these, below listed, should have been admitted as valid, for the following reasons:

First: The protestant has presented no evidence except the handwritings on the ballots themselves, to prove that the ballots were written by the same hand. On page 181 of his memorandum, the protestant admitted that "We are

constrained to limit ourselves to the handwritings on the ballots to show that the ballots were in fact written in groups each by one hand." However, on page 184, read together with page 139, he admitted further that "Under ordinary standards, the ballots could very well pass as products of different hands." He claims that this is due to the fact that "in numerous instances the perpetrators had made serious attempts to disguise their handwritings." Unfortunately, he presented no evidence at all of such disguise, and, in truth, the theory of "disguise" is the ultimate recourse of those who would go against the facts. As Osborne says:

"Another of the most important contributing causes of error in the identification of writing is the assumption that all the differences in two writings are the result of intended disguise. This wholly unwarranted assumption is often made, insisted upon, and followed. It often is absurd to conclude that a writer did not disguise the main features of his handwriting but successfully adopted and maintained a delicate, consistent, inconspicuous disguise through a considerable quantity of writing. It is unreasonable to assume that the usual operator would have been able thoroughly to analyze a handwriting and then skilfully eliminate all of his own delicate characteristics in this way and at the same time adopt and put into a writing repeated examples of inconspicuous disguised characteristics. Not one writer in a thousand can correctly analyze his own handwriting and point out its most important identifying qualities.

If two writings show repeated and inconspicuous differences that it is unreasonable to conclude were purposely put into the writing, then the conclusion must be reached that these differences are the unconscious characteristics of two different writers. It is easy to understand that if one interprets all the differences as disguises and all similarities as individual characteristics then almost any two writings in the same language can be shown to be written by one writer. This incorrect method is followed with most deplorable results." (Questioned Documents, 2nd ed., p. 386)

By protestant's own admission, therefore, the handwritings on the ballots are not sufficient to prove that they were written by one hand.

Second: This Tribunal, in *Viola vs. Atienza* ruled that, to annul ballots for having been written by the same hand, the similarity in the handwriting must not only be in form but also in habitual characteristics (ETHR No. 61, pp. 159, 166, 167). In so ruling, this Tribunal merely restated the basic principles of handwriting identification with which we are all familiar; and followed rulings of the Supreme Court in *Olano vs. Tibayan*, 53 Phil., 171, and *Sarenas vs. Generoso*, 61 Phil., 553; and of the Court of Appeals in *Silvosa vs. Pimentel* (Oct. 31, 1949) CA-GR No. 4589-R. The similarity in the handwritings on the ballots listed below, if it exists at all, is merely superficial; similarity in form-not in habitual characteristics.

Third: In *Visarra vs. Clarin*, this Tribunal ruled that although there may be "a semblance of merit in the object-

tion (when) there is doubt as to its certainty . . . We resolve the doubt in favor of the validity of the ballot" (ETHR No. 7, p. 57). In going over many of the ballots listed below, several members expressed doubt as to the identity of the persons who filled in the ballots; yet this doubt was resolved against the ballots.

Four: Each of the ballots listed below has its coupon attached to it, and the fingerprints in each coupon are different. While this is not conclusive proof that each ballot was written by a different person, it is highly persuasive, especially because the handwritings themselves, as the protestant admits, look different.

Fifth: The degree of similarity in the handwritings on the ballot listed below is the same as, if not less than, the degree of similarity in the handwritings on the ballots for the protestant in Precincts 1 and 8 of Dumarang. However, the latter ballots were admitted by the Tribunal and, in my opinion, correctly so; so that the ballots listed below should likewise be admitted. We can not adopt different standards for different ballots; we cannot judge the protestant's ballots with liberality, and the protestee's ballots with rigidity.

Guided by the foregoing considerations, I am of the opinion that the following groups of ballots of Precinct No. 6 of Agutaya, rejected by the majority should have been admitted in favor of the protestant:

Group 1: Exhibits E-39, E-98 and E-65.

Group 2: Exhibits E-34, E-36 and E-38. Though there is doubt in my mind as to Exhibits E-36 and E-38, I am willing to abide by the majority ruling of the Division; but Exhibit E-34 is clearly different from the other two ballots in the group and it should be admitted.

Group 3: Exhibits E-2, E-3, E-4, E-5, E-6 and E-7. I am in doubt as to ballots Exhibits E-2 and E-5 and therefore abide by the ruling of the majority that they are written by the same hand. But the remaining four ballots in this group, namely, Exhibits E-3, E-4, E-6 and E-7 were each clearly written by a different hand. These last four ballots should therefore be admitted.

Group 4: Exhibits E-54 and E-55.

Group 5: Exhibits E-87 and E-90.

Group 6: Exhibits E-43 and E-41.

Group 7: Exhibits E-29, E-63 and E-31.

Group 8: Exhibits E-67, E-68 and E-73.

Group 9: Exhibits E-1, E-10, E-9, E-11 and E-8.

Out of this group, I am inclined to agree with the rulings of the third Division on Exhibits E-8 and E-10, and E-9 and E-11. But Exhibit E-1 seems to me to have been clearly written by a different hand. Even the inter-

letter connections and the pressure and the form of the letters are different.

Group 10: Exhibits E-62, E-47, E-96, E-126 and E-93.

Group 11: Exhibits E-28 and E-32.

Group 12: Exhibits E-117 and E-128.

Group 13: Exhibits E-53 and E-97.

Group 14: Exhibits E-23 and E-24.

Group 15: Exhibits E-21 and E-22.

Group 16: Exhibits E-25 and E-116.

Group 17: Exhibits E-12 and E-13.

Group 18: Exhibits E-72 and E-66.

Group 19: Exhibits E-35 and E-57.

Group 20: Exhibits E-60 and E-102.

Group 21: Exhibits E-125 and E-127.

CORON—Precinct 19

Exhibits E-1, E-2, E-3, and E-4. These ballots were not written by one and the same hand; and should, therefore have been counted for the protestee.

In the body of *Exhibits A-4 and A-5*, this is written: "I vote for the candidates of the Nacionalista Party." The box for party voting is blank, but it is obvious and indubitable that the elector intended to vote by block-voting, considering that the words he wrote are the very identical words appearing on the box for block-voting. In other cases this Tribunal has held that ballots of similar nature were valid. In *Confesor vs. Lutero*, ETHR No. 15, the name of the candidate was not written in the proper space, but was written upside down. However, as it was preceded by the word "Ripricintante", the intention of the elector was indubitable, the vote was held valid. In *Mitra vs. Molintas*, ETHR No. 63, and *Amilbansa vs. Rasul*, ETHR No. 38, votes for representative which were not in the proper space but appeared above or below the printed word "Representative" in the upper portion of the ballots wherein the party tickets were printed, were held to be valid votes. In *Viola vs. Atienza*, ETHR No. 61, *Ochoa vs. Calo*, ETHR No. 9 and *Visarra vs. Clarin*, ETHR No. 7, votes not in the proper space but so near it as to make the intention of the elector unmistakable were also held to be valid votes. Applying these principles, these two ballots should also be held as valid.

CUYO—Precinct 9

Exhibits A-15 and A-14. These were rejected because the majority found them to be the product of one hand. An examination of the ballots, however, shows that the handwritings are very different; and as no evidence aliunde was presented in this precinct, they should have been admitted and counted for the protestee.

CUYO—*Precinct 13*

Exhibits E-1, E-2, E-3 and E-4. I concur with the majority with respect to Exhibits E-1 and E-2, but submit that Exhibits E-3 and E-4 were written by different hands than those that wrote Exhibits E-1 and E-2. Of this group, therefore, Exhibits E-3 and E-4 should have been admitted.

CUYO—*Precinct 14*

Exhibit A-1. This is a marked ballot. On lines numbered 4, 5, 6, 7 and 8 for Senators, there appear respectively: "Jose Mameng", "Macario Palay Peralta", "Lorenzo Sumulong Basaya", "Teodoro de Vera Canut" and "Jose Palay Tando". In *Fernandez vs. Baes*, ETHR No. 23, one ballot was annulled as marked because of a vote for "Abada Tabia"; another because of a vote "Estanislao Bakulaw", still another because of a vote "Estanislao Fernandez Kura", and another because of a vote "Estanislao Fernandez Hambug." Other ballots were also annulled because they were marked with "Tiyo Macapili Patayen"; "Rupo Pampang Patay"; "Cadio Macapili Patay"; "Agapito Pampan Patay"; "Siyo Macapili Patay"; "Arado Pampan Patay"; "Ysias Macapili Binbang"; and "Tomas Spia Bunutdila"; and still others were annulled because they were marked with "Marcelo Addobo"; "Claro ng Itlog"; "Lorenzo Sulang ka Daniel"; "Jose Tandoc"; "Jose Vera Son"; "Alejo Banaag"; and "Legarda Sampaloc". In *Amilbangsa vs. Rasul*, ETHR No. 38, two ballots were annulled because of the word "Inowa" and "ta fl", written on added to the name of the candidate voted for. Exhibit A-1 in this case is of the same nature and should therefore be rejected.

CUYO—*Precinct 16*

Exhibits E-12, E-8 and E-21. These ballots were annulled as written by the same hand. I concur with the majority on Exhibits E-12 and E-8, but respectfully submit that Exhibit E-21 was written by a different hand and should have, therefore, been admitted.

Exhibits E-2, E-9, and E-13. I concur with the majority as to Exhibits E-2 and E-9, but respectfully submit that Exhibits E-13 was written by a different hand and should, therefore, be admitted.

Exhibits A-36, A-38, A-39, A-40, A-42 and A-43. These are marked ballots because of the irrelevant, insulting and meaningless expressions and should not have been counted for the protestant. In A-36, the following appears: "Cipriano Factor P7.00 and paol". In A-38, the following appears: "ala penoy sege and bolae bolae". In A-39, the following appears: "gregorio gabotan, Adriano pasegunday". In A-40, the following appears: "gam

Pelec delot coa mongeget." In A-42, the following appears: "pula lipstick lambujay Fedec". In A-43, the following appears: "Fedec Egata emong bibig".

This Tribunal has consistently voided ballots containing such irrelevant, insulting or meaningless or expressions. In *Fernandez vs. Baes*, ETHR No. 23, a ballot was annulled because it contained: "pareparehong magnanakaw ang mga iyan"; another because it contained: "pihong ako ang panalo". In other cases, ballots containing: "Thorton iniibig kita", "if you do not like a good", "if you do not like a good obedient", "Benito Briones, alias Gagon"; "Emong Cutleb alias Don Doro", "Bibing Cuyayas alias Tapayan", "Pedro Otchay alias Senador", "Generoso Cordova alias Osov", "Ignacio Colona alias Bankugan" (See *Amilbangsa vs. Rasul*, ETHR No. 38; *Ochoa vs. Calo*, ETHR No. 9.) Exhibits A-36, A-38, A-39, A-40, A-42 and A-43 should have been rejected.

COUNTER-PROTEST

CORON—*Precinct 2*

Exhibit A-1. This is a marked ballot. On lines 2, 3, 4, and 5 for Senators the voter wrote, respectively, "Rufino Cruz", "Irene Mayo", "Balbara Mayo", and "Pe Kim Tiao". The intention of the voter to mark his ballot is very clear, particularly when he wrote "Pe Kim Tiao", a chinese name. This is an exception to the rule laid down in Section 149, par. 13, of the Revised Election Code. In *Fernandez vs. Baes*, ETHR No. 23, ballots of similar nature, containing votes for "P. Lacsí" and "Bening Romero" on lines 8 and 7 for Senators were rejected; as was also a ballot containing votes for "Miss Aurea Mercado; and "Ginyong Sierra" on line 7 and 8 for Senator.

CUYO—*Precinct 19*

Exhibits A-2, A-4, A-5, A-7, A-8, A-17, A-19, A-22, A-23, A-24, A-27, A-28, A-30, A-31, A-32, A-39, A-40, A-42, A-44, A-45, A-48, A-59, A-60, A-61, A-64, A-65, A-66, A-67, A-68, A-77, A-78, A-80, A-83 and A-87. The foregoing 34 ballots were all prepared by electors whose residence, according to both their voters' affidavits and list of voters themselves, is not Manamok; Cuyo, Palawan, the place where this precinct is located, but Manila, Batangas, Cebu, Capiz, Leyte, Masbate or Tayabas. The details appear on the table which is attached to this dissenting opinion as Annex "A".

It seems clear that, on general principles, these 34 ballots should be annulled.

Residence within the municipality is an essential prerequisite of the right to vote:

"SEC. 1. Suffrage may be exercised by male citizens of the Philippines not otherwise disqualified by law, who are twenty-one years of

age or over and are able to read and write, and who shall have resided in the Philippines for one year and in the municipality wherein they propose to vote for at least six months preceding the election. The national Assembly shall extend the right of suffrage to women, if in a plebiscite which shall be held for that purpose within two years after the adoption of this constitution, not less than three hundred thousand women possessing the necessary qualification shall vote affirmatively on the question."—*Art. V. Sec. 1, Constitution of the Philippines.*

"Sec. 98. *Qualifications prescribed for a voter.*—Every citizen of the Philippines, whether male or female, twenty-one years of age or over, able to read and write, who has been a resident of the Philippines for one year and of the municipality in which he has registered during the six months immediately preceding, who is not otherwise disqualified, may vote in the said precinct at any election."—*Revised Election Code.*

"To be a bonafide resident in the Philippines for one year and in the municipality where a person proposes to vote for at least six months preceding the election, is one of the constitutional and statutory qualifications for a voter.

"In fixing this qualification 'the lawmaker intended that persons filling provincial offices should be acquainted with the conditions and needs of the province wherein official service is intended. The purpose was to prevent a non-resident from seeking and holding office in a province other than in which he actually lives. (*Tanscco vs. Arteché*, 57 Phil., 235)'.—"Francisco's How to Try Election Cases, 1952 ed., pp. 26-27.

The voters' affidavits and the list of voters are proof not only of address but more particularly of residence; and in this case, they prove that the electors in question were not residents of Cuyo and therefore did not have the qualification prescribed by law.

Sec. 109. *Voter's affidavit.*—Every person desiring to be registered in the list of voters shall, under oath taken before the board of inspectors, sign and affix the imprint of the thumb of his right hand to a statement in triplicate, wherein he shall state: His name and surname; place of birth; age on his last birthday; civil status; profession, occupation or trade; residence, giving his correct and exact address; that he possesses the qualifications required of a voter; and that he is not in any way legally disqualified from voting. The board of inspectors shall require that the thumbmark appear plainly printed."—*Revised Election Code.*

"SEC. 112. *Columns in the list of voters.*—The list of voters shall be arranged in columns as follows: In the first column there shall be entered, at the time of the closing of the list before each election, a number opposite the name of each voter registered, beginning with number one and continuing in consecutive order until the end of the list. In the second column, the surnames generally used by such persons shall be written in alphabetical order followed by their respective christian names, without abbreviations of any kind. In the third column, the respective residence of such persons with the name of the street and number, or, in case there is none, a brief description of the locality or place shall be inserted. In the fourth column, there shall be put on the day of the election the numbers of the ballot which were given successively to the voter. In the fifth column, the voter shall stamp on the day of the election the mark of the thumb of his right hand and under said mark his signature. And in the sixth column the signature of the member of the board who has handed the ballot to the voter.

It will be sufficient that the fourth, fifth, and sixth columns shall be filled in the copy of the list under the custody of the member of the board who has handed the ballot to the voter. It shall be the duty of the board of inspectors to see to it that the thumbmark is stamped plainly."—Revised Election Code.

The purpose of requiring residence (giving correct and exact address) to be stated in voter's affidavit and list of voters is primarily, to enable the board of inspectors to see whether the elector possesses the constitutional and statutory qualification of residence; and to allow any interested party to investigate his residence by going to the "correct and exact address" and seeing if the person really lives there; and secondarily, to notify the elector of the action of the Court on his registration. It is not, as suggested by one of the majority, to notify the elector of the action of the board on his registration, for such action is usually taken in the elector's presence (Secs. 115, 118, Revised Election Code), so that it is already known to him. Moreover, the requisite of residence in the voter's affidavit and in the list of voters means legal residence or domicile, not merely postal address:

See Sec. 98, R. E. C., quoted *ante*.

"Sec. 107. *Registration in another municipality.*—Any voter who desires to transfer his registration to another municipality shall, at least ten days before the first registration day, file with or send by registered mail to the municipal treasurer of the municipality wherein he is registered a sworn petition, in quadruplicate applying for the cancellation of his registration and giving *his address at his new residence* and the date on which he removed to his *new residence*. Upon receipt of the petition, the municipal treasurer shall strike out the name of the applicant from the copy of the list on file in his office and shall immediately send a copy of the petition on the proper board of inspectors, another to the register of deeds of the province and another to the Commission on Elections, who shall likewise strike out the name of the applicant from the copy of the list used in the last election under their custody."—Revised Election Code.

In this particular instance, the inspector clearly showed that they intended the residence in the list of voters to mean legal residence, not just postal address, because they placed therein, not the address given by the electors in their voters affidavits but their birthplaces or domiciles of origin which are presumptively their legal residences. For example, in the case of Paterno Bosa and Adriel Sumayan Exhibits A-4 and A-5, these electors gave their birthplaces in the voters' affidavits as Cebu but their residences as Manila; nevertheless, the board of inspectors placed Cebu as their residence in the list of voter (Exhibits 411, 434, 405-7, 415-CC). The same procedure was followed in all other cases where the birthplaces and residences in the voters' affidavits were different from each other. In thus noting the birthplace in the list of voters, instead of the residence given in the voter's affidavits, the

board of inspectors clearly showed that they knew the residence requirement meant legal residence or domicile; and in placing the birthplace as their residences, they were merely placing the domicile of origin, which is presumptively the legal residence of the elector.

Probably the main reason why these people were allowed to register despite the lack of residence is—not that they were residents of the place—but that they were fishermen who would not be able to vote in Manila or their hometowns, and as the election were national, the board probably—out erroneously—thought that residence was immaterial.

Since it has been proved that the electors lack the constitutional and statutory residence qualification, their votes are void. This proposition is a necessary conclusion of the two preceding propositions and does not seem to require any authorities.

But it is argued that the Tribunal should not annul these 34 ballots in these proceedings because:

(a) It should be presumed that the inspectors have complied with the law; so that even if the residences of the 34 electors in question, as they appear on the list of voters, are not Palawan, it should be presumed that the board of inspectors did determine that the electors were really residents of Palawan and were, therefore, qualified to vote, before they registered them; so that the residences placed on the list should be presumed to be the result of mistakes on the part of the inspectors.

(b) Moreover, the period for the exclusion of the 34 voters having expired, without the voters being excluded, the protestee (Abordo) is in estoppel to ask for the annulment of their votes.

(c) Finally, as the names of these electors appear on the registry list and the registry list is conclusive, their right to vote cannot be questioned in these proceedings under section 176, paragraph (f) of the Revised Election Code.

While these appear to be, at first glance, fairly cogent reasons, deeper thought on the matter reveals that they are without real or substantial merit.

As to the first argument, while it is true that there is a presumption that the board of inspectors did comply with the law, it is likewise true that there is a presumption that no mistakes have been committed (Rules of Court, Rule 123, section 69, paragraph (m) and (z)); so that one presumption cancels the other, and we are left with the bare fact that the residences of these electors, as they appear not only on the list of voters but also in the electors' own voters' affidavits, are not Palawan. Moreover, the presumption that the inspectors have complied with the law is, at best, merely *prima facie*; it cannot

stand proven facts; and in this instance, both the voters' registry list and the voters' affidavits prove that the inspectors did register 34 non-residents as electors. Let us take a practical example: It is presumed, for instance, that every man is innocent of crime. But if one sees X pour poison into Y's cup of coffee, sees Y take the coffee and die, can the man who saw these acts presume that X is still innocent because there is still a very remote possibility that X might have poured an antidote together with the poison into the cup of coffee, and that Y might have died of a heart attack instead of poisoning? Yet that remote possibility is the presumption we are asked to make. Now, the law presumes only what is normal, natural and reasonable; and when the voters' affidavit show *birth places and residences* which are not Palawan, and the list of voters itself shows *residences* which are not Palawan, it would be extremely unnatural, abnormal and unreasonable to presume that the electors were really residents of Palawan.

As to the second and third arguments, they are in reality one and the same, although couched in different terms. If mere inaction during the exclusionary period, by itself alone, estops a candidate from questioning an elector's qualification in an election contest, then it should estop the candidate from questioning those qualifications in any other ulterior proceedings, such as in a criminal case or in the next election when the list of voters is again compiled. But that is not the law; and it has never been doubted that he could do so in such ulterior proceedings. Hence, if a candidate is estopped from questioning an elector's qualifications in an election contest, it is not because of his inaction alone, it is because of section 176, paragraph (f) of the Revised Election Code. Therefore, the second argument—estoppel—and the third argument—conclusiveness of the list of voters—are really one and the same argument: Both depend, for their validity, on section 176, paragraph (f) of the Revised Election Code.

Let us, therefore, analyze section 176, paragraph (f), of the Revised Election Code. This section reads as follows:

"SEC. 176. *Procedure.* * * * (f) In election contest proceedings, the registry list, as finally corrected by the board of inspectors, shall be conclusive in regard to the question *as to who* had the right to vote in said election."

Note that the law does not say that everyone whose name is on the list of voters is conclusively presumed to be entitled to vote; if that were so, even those who had died after registration day but before election day, would still be conclusively presumed to be entitled to vote, which is absurd.

What the law say is that, "in regard to the question as to who had the right to vote", in an election contest "the registry list *shall be conclusive*." In my opinion, this means only that, whenever any question as to the right of anyone to vote comes up in an election contest, the registry list is the only document to be consulted; and what appears thereon is conclusive. If that is correct, and historically it seems so (*Dizon vs. Cailles*, 56 Phil., 695), then it is conclusive that the 34 electors in question are not qualified to vote because their residence, according to the list of voters, is not Palawan, but Manila, Cebu etc.

But even if this interpretation were wrong, and the inclusion of the names of the electors in the list is conclusive as to their right to vote, nevertheless such a rule of conclusiveness does not apply to this case.

For such a rule of conclusiveness to apply, it is essential that the list of voters appear to be, on its face, regular and correct. I know of no instance where the law conclusively presumes something to be correct which is, on its very face, incorrect. Take the case of a final judgment. Such a judgment is, as between the parties and their successors in interest, conclusive once it becomes final. But if the judgment shows, on its face, that it was rendered by a court without jurisdiction, then it is a nullity that creates no rights and extinguishes none, that binds neither the court that issued it, nor any court, nor the parties, it is a mere scrap of paper that may be attacked at anytime, either directly or collaterally. So too the registration of electors, when regular on its face, is conclusive on their right to vote; but when their lack of qualification or non-residence appears on the registry list itself, it is not and cannot be conclusive as to their right to vote. To hold otherwise, to my mind, would be the same as holding that the law had defined a circle as a square, or had laid down the rule that a thing is and is not at one and the same time. But these are metaphysical impossibilities; and not even the most powerful legislators in the world could lay down such rules.

The real reason, the only reason behind the rule of the conclusiveness of the list of voters, seems to me to be the need of avoiding confusion of issues. If one were to allow the parties to an election contest to dispute the qualifications of electors whose registration appears, on its face, to be legal, election protests would never end. Every elector would then be a separate issue requiring independent evidence and individual rulings by the Tribunal. This would be intolerable; and it is for this reason that, when the registration appears, on its face, to be regular and correct, no evidence assailing it is allowed. But the rule is otherwise when the lack of qualifications and the

error in registration appear on the very face of the list itself. In this case, there is no need for any other evidence, as the list itself is the best evidence. Nor would there be any confusion of issues, since the Tribunal has only to rule on what appears on the list. Thus, the reason for the rule of conclusiveness does not apply to the case before us except as to what appears in the list of voters; and the maxim is well known that the *cessante ratione legis cessat et ipsa lex*.

One final consideration should be borne in mind. The act of conclusiveness, considering its origin and *raison d'être* was designed for the protection of the parties to election contests. But this is a rule that the parties may waive or forego. In the case at bar, protestee waived this rule by presenting evidence; and the protestant, in turn, waived it by failing to object to the protestee's evidence. Consequently, the question has been squarely presented for decision by the Tribunal; and it seems to me to be our duty to decide the question. I vote, therefore, for the rejection of the 34 ballots listed above.

DUMARAN—*Precinct 1*

Exhibits E-13, E-14, E-15, E-16, E-17 and E-32; and Exhibits E-20 and E-21. These were rejected because the majority found them to be the product of one hand. An examination of the ballots, however, shows that the handwritings are very different; and as no evidence aliunde was presented in this precinct, they should be admitted.

SUMMARY

The majority opinion finds that the protestant was elected with a plurality of 35 votes over the protestee. I am of the opinion that the 111 votes listed in the preceding paragraphs should be counted for the protestee or should not have been counted for the protestant. The result is that the protestee was in fact elected to the office of Congressman with a plurality of 76 votes. The election of the protestee should, therefore, have been confirmed and this protest dismissed with costs against the protestant.

Tolentino and Ramos, JJ., concur in this dissent.

Protestant is declared duly elected and protestee unsealed and ordered to pay protestant the cost of protest.

DECISIONS OF THE COURT OF APPEALS

[No. 3787-R. February 20, 1954]

RICARDO R. BUENAVENTURA, plaintiff and appellee, *vs.* ENRIQUE BAUTISTA, ET AL., defendants and appellants.
AMBROSIO CONCEPCION, ET AL., intervenors and appellants.

1. DONATIONS "INTER VIVOS"; ACTIVE INTERVENTION OF BENEFICIARY IN PREPARATION AND EXECUTION OF DONATION, EFFECT UPON VALIDITY OF DONATION; RULE IN WILLS ENJOINING COURTS TO BE VIGILANT AND ZEALOUS IN APPRAISING DOCUMENT, APPLIED.—The same salutary rule accepted in will, that "if a party writes or prepares a will under which he takes benefit, that is a circumstance which ought generally to excite the suspicion of the court, and calls upon it to be vigilant and zealous in examining the evidence in support of the instrument, in favor of which it ought not to pronounce unless the suspicion is removed, and it is judicially satisfied that the paper propounded does express the true will of the deceased, (*Perry vs. Elio*, 29 Phil., 156; *Delafield vs. Parish*, 25 N. Y. 9, 36; *Barry vs. Bultin*, 1 Curt. Ecc. Rep., 637)," is also applicable to donations *inter vivos*.
2. ID.; ID.; ID.; DONATION IN FAVOR OF GRANDCHILD OF COMMON-LAW HUSBAND; PROHIBITION AGAINST DONATION BETWEEN SPOUSES AND STEPCHILDREN APPLICABLE TO EXTRA-MARITAL RELATIONS.—In the absence of special regulation of the relations that constitute what are euphemistically termed "common-law marriages," we believe that the prohibition prescribed by law against liberalities between spouse and stepchildren are, by analogy, applicable to such extra-marital relations. These prohibitions appear in articles 1334 and 1335 of the Civil Code of 1889, in force when the donation in question was executed.
3. ID.; ID.; ID.; ID.; ID.; REASON BEHIND PROHIBITION.—While article 1335 of the Civil Code of 1889 speaks of spouses, still, if the policy of the law is, as it has always been, to prohibit donations in favor of the other consort and his descendants because of fear of undue and improper pressure and influence upon the donor, a prejudice deeply rooted in our ancient law, then there is every reason to apply the same prohibitive policy to person living together as husband and wife without benefit of nuptials. Moreover, as already pointed out by Ulpian (in his *lib. 32 ad Sabinum*, fr. 1), "it would not be just that such donations should subsist, lest the condition of those who incurred guilt should turn out to be better." So long as marriage remains the cornerstone of our family law, reason and morality alike demand that the disabilities attached to marriage should likewise attach to concubinage. Consequently, the donation upon which the donee premises his cause of action is not only unauthenticated, but null and void as contrary to public policy.

APPEAL from a judgment of the Court of First Instance of Manila. Dinglasan, *J.*

The facts are stated in the opinion of the court.

De Santos, Herrera & Delfino for the appellants.

Jose T. de los Santos for the appellee.

REYES, J. B. L., J.:

Appeal to reverse the decision of the Court of First Instance of Manila, declaring plaintiff-appellee Ricardo R. Buenaventura the true and lawful owner of the properties (land and houses) covered by Transfer Certificates of Title Nos. 72433 and 72434 (formerly Nos. 30863 and 30864) of Manila, by donation from the registered owner Margarita Bautista, now deceased; and annulling and setting aside the extrajudicial partition of her estate executed by the defendants Bautista (nephews and nieces of said deceased), as well as their conveyance of the properties aforementioned to intervenors Ambrosio Concepcion and Agapita Casanova, who in turn are adjudged entitled to recover from their vendors the price of ₱13,000 plus ₱1,300 as damages.

From the reconstituted records the following facts are not in controversy:

That Margarita Bautista, the original registered owner of the properties in dispute, had been living maritally for a long time with Hermogenes Buenaventura, a widower, and was canonically married to him on December 4, 1943, as shown by the marriage certificate Exhibit E. She had borne no children. Upon her death (on December 10, 1943), her nephew and nieces, Mercedes, Gregoria and Enrique, surnamed Bautista, as her nearest relatives and heirs intestate, executed a deed of extrajudicial partition of the litigated properties and filed it with the Register of Deeds on March 7, 1944. Therefore, and upon surrender of the owner's duplicates of Certificates of Title Nos. 30863 and 30864, they obtained the issuance of new certificates of title bearing Nos. 72433 and 72434. The new titles bore the notation:

"Liabilities.—To creditors, heirs, and other persons unlawfully deprived of participation in the estate of the deceased Margarita Bautista, as extrajudicially settled, for a period of two years, pursuant to sec. 4, Rule 74 of the Rules of Court." (v. Exhibit 3-A and 3-B, Bautista).

On April 20, 1944, the Bautista heirs sold the two properties in question to the spouses Ambrosio Concepcion and Agapita Casanova for ₱13,000, and executed the corresponding notarial deed of conveyance (Exhibit 2—Intervenor), wherein the vendors expressly warranted peaceful possession and legal ownership of the property sold, and stipulated that in case of disturbance in the possession, the buyers could elect to rescind the contract and recover the selling price plus ten per centum liquidated damages. The deed was filed in the Registry of Property on April 21, 1944 (Exhibit 5—Intervenors); but it turned out that the day previous, e.i., April 20, a *lis pendens* notice had been entered, referring to an action in the Court of First Instance of Manila brought by Ricardo Buenaventura against the

vendors Enrique, Mercedes and Gregoria Bautista, for reivindicacion of the very same properties sold to the spouses Concepcion-Casanova (Exhibits 3-A and 3-B, Bautista).

It appears further that on December 6, 1943, the Fourth Branch of the Court of First Instance of Manila, upon petition of Margarita Bautista through her attorney, had ordered the Registry of Deeds to issue new duplicates for Certificates of Title Nos. 30863 and 30864 because the owner's duplicates had allegedly been lost (Exhibit D). This order was filed for registration on December 13, 1943, together with a notarial deed purportedly executed on December 3, 1943 by Margarita Bautista, donating the litigated properties to Ricardo Buenaventura, grandson of Hermogenes Buenaventura (Exhibits A-2, A-3). The recording, however, was not completed until the inheritance taxes were paid and the tax receipt filed for record, which was done on April 10, 1944 (Exhibit A-1).

Answering Buenaventura's complaint for revindication based on the donation in his favor, the Bautistas pleaded that said donation was void because the donor Margarita Bautista was in no condition to execute the same; and that the partition by the heirs was made in good faith, the owner having entrusted the original title duplicates to her nephew and nieces for that purpose. The intervenors-buyers Concepcion-Casanova, intervened pleading purchase in good faith, in reliance of the certificates of title Nos. 72433 and 72434; counterclaimed for the rental of the properties collected by the plaintiff-donee; and pleaded in the alternative, recovery of the price plus damages. Buenaventura, in turn, averred that the sale was recorded after entry of the *lis pendens* notice.

Both in the court below and in this court the validity of the donation in favor of Ricardo Buenaventura has become the main issue. The evidence for the plaintiff is substantially to the effect that on March 2, 1943, the donee and his counsel appeared at the office of attorney and notary public Gregorio M. Bilog bringing with them the original of the deed of donation, and informed him that the donor wished to execute it the next day; that Attorney Bilog went to Margarita's house the next day and found her in bed, sick with tuberculosis; that the deed of donation was read to her and thereafter the same was thumbmarked and acknowledged by the donor, and witnessed by Agapito Macapanpan and Lauro Ferrera, who resided close by and had been requested by the donor the previous day to act as such witnesses. The donee Ricardo Buenaventura also signed in token of acceptance.

It was further testified for the plaintiff that on the same occasion, Margarita Bautista asked Bilog to prosecute her nephew and nieces (defendants in this case) on the ground

that they had taken her jewelry without her consent, but Bilog refused, alleging he was too busy to do so.

It was also shown that on November 27, 1943, Margarita Bautista had thumbmarked an affidavit (Exhibit B) that she had lost her duplicates of certificates of title Nos. 30863 and 30864; and said affidavit was ratified also by Attorney Bilog, to whose office Buenaventura had brought the prepared affidavit the preceding day.

The unfortunate destruction of the original deed of donation recorded in the Registry of Deeds for the City of Manila, and of the notary's copy, due to the battle for the liberation of Manila in early 1945, has precluded examination of said original and forced plaintiff to rely on secondary evidence. Apart from the testimony of the donee himself, of the notary Bilog, and of the witnesses Nacopanpan and Ferrera, plaintiff submitted two alleged copies of the deed of donation. One (Exhibit C-1) is claimed to have been copied by Nicolas Bengco, of the Bureau of Internal Revenue, in 1943 or 1944, from the duplicate submitted to the bureau in connection with the payment of inheritance tax; and another (Exhibit C) was allegedly copied from Exhibit C-1 and submitted by the donee Buenaventura to notary Bilog after liberation, and certified by the latter as a true copy on November 13, 1945, thus acquiring no better value than Bilog's vague recollection of its contents. Both copies have identical recitals; but Exhibit C expresses the names of the witnesses that Exhibit C-1 shows to be "illegible", while Exhibit C-1 bears the names of the donee on the margins, which name is omitted in Exhibit C.

The appellants Bautista rely primarily on inconsistencies in the plaintiff's evidence; on the fact that they were not allowed to visit their sick aunt on the day she executed the donation, and the next day when she was married to the grandfather of the donee; on the circumstance that their aunt had allegedly delivered to them the original duplicates of the certificates of title; and on their having been kept in the dark about the donation and the marriage.

The court below found it "sufficiently established that the deed of donation was executed with the formalities and requirements of law," and declared the plaintiff Ricardo Buenaventura to be the lawful donee and true owner of the disputed property; declared null and void the extrajudicial partition among defendant heirs Bautista, as well as the issuance of certificate of title Nos. 72433 and 72434 in their favor; and likewise annulled the deed of sale in favor of the intervenors, spouses Concepcion-Casanova, sentencing the vendors (defendants Bautista) to reimburse the price of ₱13,000 plus ₱1,300 as damages. The defendants Bautista and the intervenors appealed, assigning the following errors:

I

The trial court erred in holding that Margarita Bautista donated the properties subject-matter of their action to the plaintiff.

II

The trial court erred in declaring the deed of extra-judicial partition executed by the defendants to be null and void and in ordering the cancellation of the Torrens titles issued to them.

III

The trial court erred in holding that the intervenors were not purchasers in good faith of the properties subject-matter of the action.

IV

The trial court erred in rendering judgment in favor of the plaintiff and against the defendants and intervenors.

One outstanding feature of this case that has called the Court's attention is the active intervention of the beneficiary (appellee Ricardo Buenaventura) in the preparation and execution of the donation in his favor. Contrasted with the absence of adequate proof that the alleged donor caused the deed to be prepared, it positively appears that appellee and his attorney, Apacible, brought the deed to the office of Attorney Bilog already drawn up in final form, and instructed Bilog to proceed to the donor's house the following day for its execution and ratification. The same thing happened with the affidavit regarding the loss of the duplicates of the certificates of title (Exhibit B), said affidavit being essential to obtain the new duplicates without which the donation could not be recorded.

We have elsewhere held (*Felizario vs. Diangson*, C. A.—G. R. No. 8471—R, January 6, 1953) that there is every reason to apply to donation inter vivos the same salutary rule accepted in wills, that—

"if a party writes or prepares a will under which he takes benefit, that is a circumstance which ought generally to excite the suspicion of the court, and calls upon it to be vigilant and zealous in examining the evidence in support of the instrument, in favor of which it ought not to pronounce unless the suspicion is removed, and it is judicially satisfied that the paper propounded does express the true will of the deceased. (*Perry vs. Elio*, 29 Phil., 156; *Delafield vs. Parish*, 25 N. Y. 9, 36; *Barry vs. Bultin*, 1 Curt. Ecc. Rep., 637)."

The applicability of the rule to the donation here in question is heightened by the admitted fact that when the donor Margarita Bautista executed it, she was so weak from long-standing tuberculosis that she had to be helped in thumbmarking it, and that she died only one week afterwards. So closely did death follow that the Collector of Internal Revenue insisted in treating the donation as a transfer in contemplation of supervening death, and held it taxable as such (Exhibit D-2).

Bearing in mind the rule above-quoted, this court is of the opinion that the authenticity and genuineness of the deed of donation recorded by plaintiff in the Register of Deeds of Manila on December 13, 1943 is seriously infirmed by the following circumstances;

(1) That according to plaintiff's evidence, the donor Margarita Bautista was too weak to sign her name on November 27, 1943, when she executed the affidavit Exhibit B, as well as on December 3, 1943, when the deed of donation was made, to the extent that the notary Bilog had to help her thumbmark both documents; yet the very next day (December 4, 1943), she appears to have actually signed and written her name in her marriage contract with the grandfather of the donee.

(2) Clause 4 of the deed of donation appears suspiciously foreign and irrelevant to the nature of the instrument. In said clause, the alleged donor complained that her nephews, Faustino Claudio, Remedios Bautista, and Enrique Bautista, made her sign a document that she did not understand, though she was told it was a testament; that thereafter, her said nephew abandoned her in her distress, and later, she found they had tampered with her jewelry and certificates of title.

(3) The statement in clause 4 that her nephews had taken the duplicates of her certificates of title contradicts her previous sworn statement (Exhibit B) executed just six days previously, that the said titles were lost due to her changes of residence on account of the war (*lahilan sa pagkalipat-lipat ko ng tahanan sanhi sa guerra*”).

(4) In paragraph 5 of the deed of donation, the alleged donor declares that if she had signed any document in favor of her nephews aforesaid, she revokes and declares it null and void “by virtue of the present deed,” because of their offenses against said donor. This clause would be more appropriate in a will, and its appearance in the deed of donation, when considered with the other circumstances on record, raises serious doubts as to whether the donor truly understood the nature of the document she was executing.

(5) Witnesses Macapanpan and Ferrera differed materially as to the way the deed of donation was thumbmarked. The former claimed that notary Bilog applied ink from his *fountain pen* on the thumb of the donor (t. s. n. Gutierrez, pp. 95-96); while Ferrera claimed the ink came from a *stamp pad* held by Attorney Bilog (id., pp. 112, 126-127). Now, while two witnesses may honestly see and describe the same act differently, because of diverse viewpoints, they can not truthfully assert the presence of such different things as a pen and a stamp pad on one and the same occasion, when the use of one necessarily excludes the other.

(6) Ferrera further claimed that his name and that of Macapanpan had been previously typewritten on the left margin of each page of the deed of donation. This was evidently untrue, for the copy, Exhibit C-1, recites the marginal signatures of the witnesses to be illegible, indicating that no typewritten names appeared below the signatures of the witnesses.

(7) Finally, it is unnatural that the donor herself did not instruct Attorney Bilog to draft the deed of donation when on November 27, 1943, she had acknowledged and sworn before him the affidavit of loss of her certificates of title, since there is no apparent reason on record for the execution of that affidavit other than her intention to donate the properties covered by the titles to herein appellee. But if she had such intention, why did she keep it from the notary, who had been her attorney on other occasions.

We can not in conscience declare that the evidence is satisfactory as to the due execution of the alleged deed of donation in favor of plaintiff-appellee, the surrounding circumstances being too redulent of pressure and undue influence. But a more serious objection lies in the fact that the donee is the grandchild of the person with whom the donor had lived for a long time as her husband, and when she in fact married the next day. In the absence of special regulation of the relations that constitute what are super-naturally termed "common law marriages", we believe that the prohibition prescribed by law against liberalities between spouses and stepchildren are, by analogy, applicable to such extra-marital relations. These prohibitions appear in articles 1334 and 1335 of the Civil Code of 1889, in force when the donation in question was executed:

ART. 1334. All donations between the spouses made during the marriage shall be void.

ART. 1335. All donations made during marriage by one of the spouses to the children within the other spouse had by a former marriage, or to persons of whom the latter is a presumptive heir at the time of the donation, shall be void.

Commenting on article 1335, Manresa states the reasons and extent of the prohibition to be as follows (9 Manresa, (4th ed., p. 236):

"PRIMERO. *Donaciones en favor de hijantros.*—La ley no se opone desde luego a que los conyuges hagan donaciones a sus propios hijos; pero hechas por uno de ellos en favor de los hijos del otro procedentes de diverso matrimonio, estima, con razón, que no pueden ser impulsadas por el cariño del donante hacia esos hijos, sino más bien a su amor hacia el otro cónyuge, o a las sugestiones o imposiciones de este, y fundada en tal razón, presume la interposición de persona y prohíbe la donación.

En la palabra *hijos* deben comprenderse los descendientes legítimos en general, sean hijos o nietos, pues esa es la interpretación legal ordinaria de la palabra hijos, y la razón del precepto alcanza a todos por igual."

While article 1335 speaks of spouses, still, if the policy of the law is, as it has always been, to prohibit donations in favor of the other consort and his descendants because of fear of undue and improper pressure and influence upon the donor, a prejudice deeply rooted in our ancient law; "porque no se engañen despojandose el uno al otro por amor que han de consuno," stated the Partidas (Part. IV, Tit. XI, Law IV), reiterating the rationale "Ne mutuato amore invicem spoliarentur" of the Pandects (Bk. 24, Tit. 1, De donat, inter virum et uxorem); then there is every reason to apply the same prohibitive policy to persons living together as husband and wife without benefit of nuptials. For it is not to be doubted that assent to such irregular connection for thirty years bespeaks greater influence of one party over the other, so that the danger that the law seeks to avoid is correspondingly increased. Moreover, as already pointed out by Ulpian (in his *lib. 32 ad Sabinum*, fr. 1), "it would not be just that such donations should subsist, lest the condition of those who incurred guilt should turn out to be better." So long as marriage remains the cornerstone of our family law, reason and morality alike demand that the disabilities attached to marriage should likewise attach to concubinage.

We find the donation upon which the donee (plaintiff) premises his cause of action not only unauthenticated, but null and void as contrary to public policy.

Wherefore, the judgment appealed from is reversed, and the complaint dismissed, with costs against plaintiff Ricardo R. Buenaventura; and the latter is sentenced to account to appellants-intervenors Ambrosio Concepción and Agapita Casanova for all the rentals of the properties collected by him during his possession.

Let the records of the case be returned to the court of origin for further proceedings in accounting conformable to this opinion. So ordered.

Ocampo and Pecson, JJ., concur.

Judgment reversed; complaint dismissed and records of the case remanded to the court of origin for further proceedings in accounting.

[No. 6071-R. February 20, 1954]

FELIPA PALLER, FRANCISCO PALLER, ISABEL PADIOS and DIOSCORO PADIOS, plaintiffs and appellants, *vs.* FE DICHOSA, INOCENTES PAGINADO and the REGISTER OF DEEDS OF ILOILO, defendants and appellees.

1. SALE; "PACTO DE RETRO"; REDEMPTION.—When the terms of a deed of sale with right to repurchase provide that the lot thereby conveyed cannot be redeemed by the vendor within four years from the date of the agreement, and no period has been fixed

after the expiration of said period within which the right of redemption could be exercised, the vendor has a right to redeem the property within ten years from the date of the contract (article 1508, old Civil Code).

2. ID.; ID.; ID.; FILING OF ACTION TO REDEEM EQUIVALENT TO FORMAL OFFER TO REDEEM.—The formal offer to redeem, accompanied by a *bona fide* tender of the redemption price, made within the period of redemption provided in the contract, or in the absence of such provisions, within the period prescribed by law, is sufficient to preserve the right of redemption for future enforcement beyond such period of redemption and within the period prescribed for the action by the statute of limitations.
3. ID.; ID.; ID.; FILING OF ACTION TOLLS TERM OF REDEMPTION.—The filing of an action to redeem within the period of redemption is equivalent to a formal offer to redeem, and the filing of an action tolls the term of the right of redemption. And although the pleadings in an action to redeem do not state that there had been an offer to pay the redemption price, since the action is to compel the purchaser to reconvey to the vendor the property sold *a retro*, said action, in effect, is an action to redeem.

APPEAL from a judgment of the Court of First Instance of Iloilo. Imperial Reyes, J.

The facts are stated in the opinion of the court.

Manuel P. Villa for plaintiffs and appellants.

Leon P. Gellada for defendants and appellees.

NATIVIDAD, J.:

The plaintiffs have brought this action to compel defendant Fe Dichosa to reconvey to them lot No. 1940 of the Cadastral Survey of Passi, Iloilo, which they had sold to the latter with right to repurchase. Fe Dichosa resists the action on the ground that she is now the absolute owner of the property.

After trial, judgment was rendered declaring defendant Fe Dichosa absolute owner of the lot, and ordering the plaintiffs to surrender possession thereof to her and to pay the costs. From this judgment, the plaintiffs appealed.

It appears that on February 5, 1940 plaintiffs Felipa Paller and Francisco Paller and their deceased sister Fortunata Paller, mother of plaintiffs Isabel, Flora and Dioscoro Padios, in consideration of ₱247, Philippine currency, sold to defendant Fe Dichosa lot No. 1940 of the Cadastral Survey of Passi, Iloilo, executing for the purpose a public deed of conveyance in favor of the latter in which, among others, it was agreed that—

"It is the condition of this sale that the vendors reserve the rights to repurchase the property after the period of four years from the execution of this instrument by paying back and returning to the purchaser the purchase price agreed upon with the expenses incidental to the execution of the instrument, and should the vendors fail to exercise the right of repurchase in accordance with the terms

therein stipulated the property shall pass to and become vested absolutely and with no reservation to the herein purchaser, Fe Dichosa, her heirs, successors and assigns." (Exhibit "B").

The original of this deed, together with Original Certificate of Title No. 27736, Office of the Register of Deeds for the Province of Iloilo, which evidenced the vendor's ownership of the lot, were delivered to Fe Dichosa, who immediately took possession of the lot.

Plaintiffs claim that on March 13, 1944, Felipa Paller effected the redemption of the lot by paying to Fe Dichosa in the house of Inocentes Paginado in Janiway, Iloilo, the sum of P247 in emergency notes; that Fe Dichosa, after receiving the amount, gave to Felipa Paller the Original Certificate of Title No. 27736 and her carbon copy of the deed of sale (Exhibit "C"), alleging that she could not return the original of deed, because she had lost it; that Felipa Paller then asked Fe Dichosa to go with her to notary public so she could sign a document acknowledging receipt of the redemption money, but the latter begged to be excused and promised to do so on the following month, because of rumors that the Japanese were coming; that on that same date the plaintiffs retook possession of the lot; that as the money which Felipa Paller paid Fe Dichosa had come from Inocentes Paginado, Felipa Paller delivered to the latter Original Certificate of Title No. 27736, and on March 14, 1944, she, together with Francisco Paller and the children of her deceased sister Fortunata Paller, executed in favor of Inocentes Paginado a deed of sale with right to repurchase of the lot for P260 (Exhibit "D"), and delivered possession thereof to the latter; that in the month of April 1946 the plaintiffs redeemed the property from Inocentes Paginado by paying him P200; that the latter instead of executing a deed of reconveyance of the lot, merely signed a note on the back of the deed Exhibit "D", in which he acknowledged receipt of the amount; that Inocentes Paginado did not then return to Felipa Paller the certificate of title she had delivered to him, alleging that he had pledged it to Fe Dichosa to guarantee the return of three *bultos* of palay; that after having redeemed the lot from Inocentes Paginado, the plaintiffs resumed possession thereof.

The defendants' evidence shows that after the execution of the deed of sale with right to repurchase on February 5, 1940, Fe Dichosa had an agreement with the plaintiffs that the latter were to remain in possession of the lot as tenants, giving her 15 cavans of palay every year as her share in the produce thereof; that Fe Dichosa received from the plaintiffs her share in the produce of the lot in the years 1940 and 1941, but failed to receive such share in 1942 and subsequent years; and that in the year 1945 Fe Dichosa made inquiries as to why the plaintiffs had

not given her her share in the produce of the property, and she found that the latter and resold the property to Inocentes Paginado. Fe Dichosa further testified that because she had made it known that she would file a criminal action against the plaintiffs, the latter returned to Inocentes Paginado the amount the latter had paid them for the lot and instituted the present action on May 31, 1946.

The main questions for determination in this appeal center around two main propositions, to wit: (1) Whether or not the appellants redeemed the lot in question from appellee Fe Dichosa on March 13, 1944 as claimed by them, and (2) In the event that they had not, whether or not the appellants could still redeem the lot.

As regards the first proposition, it will be noted that the appellants do not question the authenticity of the deed of February 5, 1940 by which they conveyed by way of sale with right to repurchase the lot in question to appellee Fe Dichosa. Their only contention is that Fe Dichosa is obligated to reconvey that lot to them, because on March 13, 1944, within the period of redemption agreed upon, appellant Felipa Paller delivered to Fe Dichosa, in payment of the repurchase price of the lot, the sum of P247, which the latter received to her satisfaction, promising to execute the necessary deed of reconveyance on the following month. This contention is denied by Fe Dichosa, who claims that the appellants did not redeem the property, nor made any attempt to do so within the period stipulated for the purpose.

It thus appears that the question raised is one of fact which must be decided on the evidence of record. The trial court, in its well-written decision, found that the preponderance of the evidence supports the contention of the appellees. After a careful study of the record, we find that no sufficient showing has been made that would justify a disturbance of such finding. The statement of Felipa Paller upon which the theory of the appellants is predicated does not impress us. Aside from the fact that it is contradicted by her own witness Concepcion Moises on an essential point (Felipa stated that when she delivered to Fe Dichosa the amount of P247 the latter gave her the Original Certificate of Title No. 27736 and her carbon copy of the deed of sale Exhibit "C", but Concepcion testified that Fe returned to Felipa only the certificate of title, without being accompanied by any document), her story sounds unnatural. We find no explanation, at least none has been given, why Fe Dichosa had to follow Felipa Paller to the house of Inocentes Paginado just to receive the repurchase price. Ordinarily transaction of this nature are made in the home or place of business of the purchaser, unless the latter was the movant in the affair, and there is not even a hint in the record that Fe Dichosa

was so eager to have the appellants repurchase the property. The conduct of Felipa Paller in just accepting from Fe Dichosa the certificate of title and a carbon copy of the deed, with a promise to execute the deed of reconveyance the following month, is also unusual. A person of ordinary intelligence would have at least required Fe Dichosa to sign a receipt for the amount and thus have her interests protected. It has not been explained furthermore how Fe Dichosa happened to have not only the original of the deed but also its carbon copy. In transactions of this nature ordinarily the carbon copy of the deed is given to the vendor so the latter would have something to remind him of the period within which he must exercise his right of redemption. Opposed to this contradictory and uncongruous statement of Felipa Paller are the statements of Fe Dichosa and her witnesses Mercedes Dorillo and Inocentes Paginado. These witnesses declared in a clear and natural manner that Fe Dichosa was not in the house of Inocentes Paginado on March 13, 1944, and that the former did not enter into the transaction claimed by Felipa Paller. These statements are worthy of credence. For, if Fe Dichosa got married to a USAFE officer in the year 1941, a fact which is not successfully denied, her claim that on March 13, 1944 she was in Cagamutan, Zarraga, Iloilo, a place many miles away from Janiuay, to which she had been taken by her husband after they were married in the year 1941, and that since then she had not left that place, is believable.

We therefore, conclude, upon the evidence of record, that the finding of the trial court that the appellants had not redeemed the lot in question on March 13, 1944, by delivering to Fe Dichosa in the house of Inocentes Paginado the sum of P247, is fully established by the evidence.

With respect to the second proposition, we have observed that under the terms of the deed of sale with right to repurchase of February 5, 1940, the lot thereby conveyed cannot be redeemed by the vendor within four years from the date of the agreement. No period, however, has been fixed after the expiration of said period within which the right of redemption could be exercised. The case, therefore, falls under the sanction of the second paragraph of article 1508 of the Civil Code, which provides that—

“The right referred to in the next preceding article, in default of an express agreement, shall endure four years, counted from the date of the contract.

“Should there be an agreement, the period shall not exceed ten years.”

Under the provision of the second paragraph of the above-quoted article, which is deemed a part of the contract between the parties, the appellants in the instant case had a right to redeem the property in question within six years from February 5, 1944, or up to February 5, 1950 (article

1508, old Civil Code; *España vs. Lucido*, 8 Phil., 419; *Alano vs. Babaza*, 10 Phil., 511; *Lucido vs. Calupitan*, 27 Phil., 148; *Rosales vs. Reyes*, 25 Phil., 495).

In the instant case, it is conceded that the appellants have not made any other offer to redeem the lot in question subsequent to the alleged redemption on March 13, 1944, which we have found not to be a fact, up to the present. It appears, however, that on May 31, 1946, or within the period within which they could effect redemption of the lot, they brought the instant action. The inquiry, therefore, is, what is the effect of the filing of this action on the respective rights of the parties?

It is a settled rule that the formal offer to redeem, accompanied by a *bona fide* tender of the redemption price, within the period of redemption provided in the contract, or in the absence of such provision, within the period prescribed by law, is sufficient to preserve the right of redemption for future enforcement beyond such period of redemption and within the period prescribed for the action of the statute of limitations, and that the filing of an action to redeem within the period of redemption is equivalent to a formal offer to redeem (*Recoveros vs. Abel*, CA-G. R. No. 5862-R; *Reyes vs. Martin*, CA-G. R. No. 3693-R; *Torio vs. Rosario*, G. R. No. L-5536, September 25, 1953). It has been held also that—

"The pendency of an action brought in good faith and relating to the validity of a sale with *pacto de retro*, tolls the term for the right to redemption." (*Ong Chua vs. Carr*, 53 Phil., 975.)

It may be argued that the present action is not, strictly speaking, an action to redeem, for nowhere in the pleadings is found an offer to pay the redemption price. This possible objection is too technical, for the action is to compel the purchaser to reconvey to the vendors the property sold *a retro*. It is, therefore, in effect, an action to redeem. But be that as it may, nevertheless, under the jurisprudence the filing of the present action tolls the term of the right of redemption, and, consequently, the period of six years from February 5, 1944, within which, under the law, the appellants could redeem the property, has not as yet expired, for the running of such period of redemption must be considered suspended from May 31, 1946, when this action was brought, until it is finally decided. The result, therefore, would be the same, for the appellants may still exercise their right to redeem the property.

Upon the evidence of record, we could just affirm the judgment appealed from and reserve to the appellants the right to exercise their right to redeem the property in question within the remaining portion of the period of six years within which they could exercise such right. Such course of action, however, is deemed inadvisable, as it might

give rise to another litigation. For this reason, we have decided to make a final determination of the respective rights of the parties, inasmuch as the records afford sufficient basis therefor, and thus put an end to the case.

Wherefore, the judgment appealed from is reversed, and another is hereby entered ordering appellee Fe Dichosa to reconvey to the appellants the property involved in this action, upon payment to her by the latter of the sum of ₱247, Philippine currency, plus the expenses of the contract and any other lawful payment made by reason of the sale, within the period of 3 years, eight months and 4 days from the date this judgment becomes final. Without pronouncement as to costs.

It is so ordered.

Reyes, Pres. J., and Paredes, J., concur.

Judgment modified.

[No. 10837-R. February 24, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,
vs. ELÍAS PAGUILIGAN, defendant and appellant

CRIMINAL LAW; EVIDENCE; STATEMENT.—A statement or affidavit “prepared for a man to swear will not always disclose the whole facts, and will oftentimes and without design, incorrectly describe, without deponent detecting it, some of the occurrences narrated.” (Moore on Facts, p. 1098.) Still confused and perplexed about the fatal incident and depressed by the thought of having killed a person, it was but natural that appellant, immediately after the shooting, could not have given a complete and detailed account of the whole incident.

APPEAL from a judgment of the Court of First Instance of Bulacan. *Perez, J.*

The facts are stated in the opinion of the court.

Delgado, Flores & Macapagal for accused and appellant.
Assistant Solicitor General Francisco Carreon and *Solicitor Jose G. Bautista* for plaintiff and appellee.

GUTIERREZ DAVID, J.:

An appeal from the judgment of the Court of First Instance of Bulacán convicting Elías Paguiligan of homicide and sentencing him accordingly.

It is uncontroverted that on May 20, 1952, at about midnight, Elías Paguiligan arrived at the premises of his mother, Antonia Candelaria, located in Liang, Malolos, Bulacán. When about sixteen feet from the stairway, he saw a man descending the steps carrying a sack of palay, whereupon, he confronted the stranger and asked him who he was. Not receiving a reply, Elías fired upon him four shots with his .38 caliber Llama automatic pistol, bearing Serial No. 92471. The victim fell from the stairs and died

on the spot. Awakened by the shots were the appellant's brother, and sister and brother-in-law, who came from the house and recognized the dead man to be Rufino Estrella *alias* Pinong, of Kaiñgin, Malolos, Bulacán. Thereafter, appellant proceeded to the headquarters of the 2nd Bulacán PC Company and surrendered himself admitting that he had killed a man. On May 21, 1952 he subscribed and swore to before the Justice of the Peace of Malolos, Bulacán, a statement (Exhibit "B") wherein he admitted the killing of the deceased.

Dr. Rosalino Reyes, Medico-Legal Officer of the National Bureau of Investigation, conducted an autopsy on the body of the deceased and he found on him four gunshots which he described in Exhibit "C". According to Doctor Reyes, the main cause of death was hemorrhage resulting from those multiple wounds and shock produced by the impact thereof; that the assailant must have been a little more than two feet from the victim if the firearm used were a pistol or a revolver; and that "each time each shot was fired, the relative positions must be that the assailant must be always to the left side of the deceased and a little bit in front."

A little past 12 o'clock in the morning of May 21, 1952, or shortly after the occurrence of the incident under investigation, the Chief of Police of Malolos, Mamerto Lorenzo, repaired to the scene of the crime. He identified the dead person to be Rufino Estrella *alias* Pinong of Kaiñgin, Malolos, Bulacán. He found by the side of the body of the deceased one sack of palay (Exhibit "D-1" and "D-1a"); a *balisong* which has a blade six inches in length (Exhibit "1"); and 4 empty bullets and 2 slugs.

No eye-witness to the killing was presented by the prosecution. Appellant testified admitting that he inflicted the bullet wounds which produced the death of the deceased. He recounted the incident as follows:

As his mother and sister were alone in the house and at his mother's request, he used to visit them even at night because of recurrent robberies in the town. At about midnight of the date when he arrived at the premises of his mother's house, he saw a man carrying a sack of palay on his hip with his right hand but holding an open *balisong* Exhibit "1", in his left. The thief was midway of the stairs and about sixteen feet from him when he asked him to identify himself. As the man did not give any answer but instead dropped the sack of palay and advanced towards him menacingly, he fired at the assailant twice. The man fell to the ground. He, appellant, could not run away anymore because he was afraid that if the thief would overtake him,—as he saw that the latter was very much bigger and stronger than he—he had to wait for his next

move. And as the fallen victim attempted to stand up, the accused fired at him again two successive shots, because he had learned a lesson from experience during the guerrilla days that when the Japanese were fired upon they pretended to have been hit only later on to advance furiously against their assailant. After shooting the thief to death, the accused reported to the PC headquarters that he had killed a man whom he did not know either by name or in person and surrendered himself and his weapon.

Nobody contradicted the foregoing version of the appellant.

If the facts narrated by the appellant were true, we think he was justified in shooting the deceased. Unlawful aggression, reasonable necessity of the means employed to prevent or repel it and lack of sufficient provocation on the part of the appellant were present. (Article 11 of the Revised Penal Code.) But the court below made the finding that the appellant has failed to carry the burden placed upon him by the rule that self-defense should be substantiated by clear and convincing evidence and denied the appellant the essential element of self-defense, that is unlawful aggression. His Honor did not give credence to the version of appellant for the main reason that the alleged aggression was not mentioned by him in his statement, Exhibit "B", that is, he did not state therein that the victim approached him holding a knife of *balisong* and merely said that he shot the deceased because he was carrying a sack of palay and when asked by him who he was, he did not answer.

We do not share the view of the lower court. Appellant did not write or prepare Exhibit "B". The person who had prepared it was not presented to explain the circumstances under which the statement was made. The appellant was not confronted with said Exhibit "B". He was never asked about it. Nor was he given a chance to explain why he made no mention therein of the aggression. A statement or affidavit "prepared for a man to swear will not always disclose the whole facts, and will oftentimes and without design, incorrectly describe, without deponent detecting it, some of the occurrences narrated." (Moore on Facts, p. 1098.) Still confused and perplexed about the fatal incident and depressed by the thought of having killed a person, it was but natural that appellant, immediately after the shooting, could not have given a complete and detailed account of the whole incident. On the other hand, the fact that the deceased was armed with a *balisong* is positively confirmed by the presence of said weapon beside the corpse of the deceased as discovered by the Chief of Police while appellant was in the barracks of the Philippine Constabulary. The relatively shorter range at which the shots were fired, according to Doctor Reyes, as compared

with the original distance between the appellant and the deceased when the former challenge the latter to identify himself, corroborates the version that the deceased advanced towards the appellant before the latter fired at him. In his unimpeached testimony at the witness stand, appellant contradicted none of his averments in Exhibit "B".

There was no irreconcilable contradiction between the assertion of appellant that he was face to face with the victim when he fired at him and the finding of the doctor to the effect that according to the locations of the wounds, the one who caused them was at the left of the victim and slightly in front. Under the circumstances surrounding the case it could not be expected from appellant to remember and indicate his exact and precise position in relation with the deceased when he fired the shots and the position of being slightly in front of the deceased might be easily plausibly confused with that being face to face with him.

The trial court having erroneously appreciated appellant's testimony in the light of his previous statement, Exhibit "B", its finding as to the non-credibility of appellant because of the "manner" in which he testified and "his demeanor on the witness-stand" do not carry much weight.

It is our opinion, therefore, that the appellant has established by his uncontradicted testimony his plea of self-defense and is entitled to acquittal.

Wherefore, the appealed judgment is hereby reversed and the appellant acquitted with costs *de oficio*.

Rodas and Martinez, JJ., concur.

Judgment reversed.

[No. 5981-R. February 27, 1954]

FRANCISCO BASSIG, applicant-appellee and appellant, *vs.* THE DIRECTOR OF LANDS, CIPRIANO MARIBBAY, ABELARDO LOPEZ, GUILLERMO NADAL, JUAN MARAMAG and MARIO SAQUING, oppositors. THE DIRECTOR OF LANDS, JUAN MARAMAG, ABELARDO LOPEZ and GUILLERMO NADAL, appellants and appellees.

LAND REGISTRATION; OPPOSITION TO APPLICATION FOR LAND OF THE PUBLIC DOMAIN; BURDEN OF PROOF OF ABSENCE OF COMPOSITION TITLE OR POSSESSORY INFORMATION TITLE.—In many registration cases coming from the provinces, the opposition to applications for alleged lands of public domain is usually based on the ground that neither the applicants nor their predecessors in interest have composition title or possessory information title under the Royal Decree of February 13, 1894, and ordinarily the Government does not present any evidence on this particular point, leaving the applicants to prove this affirmative allegation of the Government. Without touching on the question of whether lands of public domain may be acquired by continued possession or prescription, we are of the opinion that when the record shows that a certain property, the registration of which

is applied for, has been possessed and cultivated by the applicant and his predecessors in interest for a long number of years without the Government taking any action to dislodge the occupants from their holdings and when these lands have passed from one hand to another by inheritance or by purchase, the Government is in duty bound to prove that the lands which it avers to be of public domain are really of said nature. We hold this opinion because after the lapse of over 60 years since the promulgation of the Royal Decree of February 13, 1894, and after the burning or destruction of public records on account of the revolution against the Spanish regime, and of several wars that have ravaged this country, it would be unjust and unfair to hold applicants duty bound to prove that they and their predecessors in interest have been in possession of the land before 1894.

APPEAL from a judgment of the Court of First Instance of Cagayan. Quitoriano, J.

The facts are stated in the opinion of the court.

B. Pobre for applicant and appellant Bassig.

Crecenciano L. Saquing for oppositor Maramag.

First Assistant Solicitor General Ruperto Kapunan, Jr. and *Solicitor Jaime de los Angeles* for appellant and appellee Director of Lands.

FELIX, J.:

On June 15, 1949, Francisco Bassig filed this land registration case in the Court of First Instance of Cagayan, claiming to be the owner of eight lots, assessed at ₱1,790 and situated in the *barrio* of Aggugaddan, municipality of Peñablanca, Cagayán, more particularly described in the plans and technical descriptions attached to the application. Applicant's claim of ownership of said eight lots is based on a deed of sale executed by Fructuoso Eclipse in his favor, dated December 4, 1939, at Tuguegarao, Cagayán, duly registered in the Office of the Register of Deeds of Cagayán. Francisco Bassig is of legal age, Filipino citizen and resident of Ugac, Tuguegarao, Cagayán. His application was opposed by the Director of Lands on December 19, 1949, who contends that said lots are of public domain and belong to the Republic of the Philippines, for neither the applicant nor his predecessors in interest possess sufficient title to said parcels of land, the same not having been acquired either by composition title from the Spanish Government or by possessory information title under the Royal Decree of February 30, 1894.

On February 20, 1949, various private individuals filed their corresponding oppositions, to wit: Juan Maramag, claiming as his lots Nos. 1, 3 and 6; Mario Saquing, lot No. 2; Abelardo López, lot No. 4; Guillermo Nadal, lot No. 5; and Cipriano Maribbay, lot No. 7. No private individual claimed ownership over lot No. 8. Mario Saquing was allowed to submit his opposition in writing and an order of general default was issued on December 20, 1949, with the

exception of the Director of Lands, Cipriano Maribbay, Abelardo López, Guillermo Nadal, Juan Maramag and Mario Saquing.

After proper proceedings and hearing the court rendered judgment on February 27, 1950, the dispositive part of which, translated into English, is as follows:

"Wherefore, the Court orders and decrees the registration of lots Nos. 3, 4, 5, 6 and 8 in accordance with the provisions of Act No. 496 in the name of Francisco Bassig, of legal age, married to Maria Lunato, Filipino and resident of Ugac, Tuguegarao, Cagayán; and dismisses the application in so far as lots Nos. 1, 2 and 7."

With regard to these three lots the court said in the decision that the evidence submitted by the oppositors shows that Juan Maramag is in possession of lot No. 1; that Mario Saquing is in possession of lot No. 2; and that lot No. 7 is in the possession of Cipriano Maribbay, and that apparently these oppositors are respectively entitled to these lots which, however, were not adjudicated to them because in their oppositions said oppositors did not apply for adjudication of said lots to them and, on the other hand, failed to produce evidence to show that they or their respective predecessors in interest had been respectively in possession of lots 1, 2 and 7 since July 26, 1894; hence the court left the adjudication of these three lots undecided and subject of future action.

The Director of Lands as well as the oppositors Juan Maramag, Abelardo López and Guillermo Nadal appealed from said decision and, together with applicant Francisco Bassig who also appealed, requested authority, which was granted, to submit, as they did, a joint record on appeal.

In this instance the three groups of appellants respectively assign the commission of various errors in the decision appealed from, to wit:

(1) Applicant Francisco Bassig maintains that the lower court erred in not finding that he and his predecessors in interest have been in possession of lots Nos. 1, 2 and 7, and in failing to order the registration of these lots in his name;

(2) The Director of Lands contends that the lower court erred in adjudicating lots Nos. 3, 4, 5, 6 and 8 of plan Exhibit A to the applicant, and in not declaring these lots as well as lots Nos. 1, 2 and 7 as lands of public domain; and

(3) The other private oppositors claim in substance that the lower court erred in declaring that Abelardo López, Guillermo Nadal and Juan Maramag failed to present clear and convincing evidence of their ownership of lots Nos. 3, 4, 5 and 6; and in not declaring lots Nos. 1, 3 and 6 as of the ownership of Juan Maramag, lot No. 4 of Abelardo López, and lot No. 5 of Guillermo Nadal.

An examination of the record shows that applicant produced evidence to show that on December 4, 1939, appli-

cant Francisco Bassig purchased lots Nos. 3, 4, 5, 6 and 8 from Policarpo Eclipse (Exhibit I), and was ever since in possession of said lots in the concept of owner until oppositors Juan Maramag, Abelardo López and Guillermo Nadal entered into lots 3, 4, 5 and 6. There is sufficient proof to establish that these four lots and lot No. 8 of plan (Exhibits A and Y) were exclusively owned by Policarpo Eclipse who has been in possession thereof continuously, publicly, peacefully and adversely to the whole world and in the concept of owner from the demise of his father-in-law, Andres Herrera; that the latter was in turn in possession of a portion of 1 hectare, 68 ares and 60 centiares of lot No. 8 in the concept of owner since the Spanish regime, having in his favor composition title from the Spanish Government duly registered in the Office of the Register of Deeds of Cagayán (Exhibit B); and that this land of Andrés Herrera is bounded on the south by property of Agapito Martin and on the west by property of Teodoro Martin who were brothers-in-law of Policarpo Eclipse who bought these adjoining properties, thus making lot No. 8 to have an actual area of 26,247 square meters. Although the *sitio* of Callao wherein said lot No. 8 is located was then under the territorial jurisdiction of the municipality of Tuguegarao, it is of public knowledge that it is now under the jurisdiction of the municipality of Peñablanca and is now the *barrio* designated with the name of Aggugaddan.

The eight lots covered by the application are of a total area of 103,325 square meters, while the land sold and deeded by Policarpo Eclipse in favor of the applicant (Exhibit I) is of an area of 117,160 square meters. In this connection Francisco Bassig declared that at the time of the purchase of this land, part of it, now lot No. 8, was "cleared", that in 1940 he delivered the portion that was cleared to Cipriano Maribbay who paid the corresponding rent for three years, after which the land was transferred to Domingo Bassig who has been cultivating it and paying the corresponding canon or rent to him (Francisco Bassig) up to the present; that in 1943 he delivered to Cipriano Maribbay lot No. 7, which had not been "cleared" at the time of his purchase, on condition that he would till the same free from rent for the first three years; that Cipriano Maribbay paid him the corresponding canon from the fourth year up to 1948; that lot No. 1 was delivered to Juan Maramag in 1947, also free from canon during the first three years, but Juan Maramag never cleared any portion of said lot up to the present; that lots Nos. 3 and 7 were likewise delivered to Juan Maramag in 1947 on the same condition of being relieved from paying canon during the first three years, and Juan Maramag started the clearing of the land but has not finished that task until now; that lot No. 4 was requested by Abelardo López for plant-

ing bananas, but he has never planted any such trees yet; that lot No. 5 was delivered to Guillermo Nadal in the same year in which lots Nos. 1, 3 and 6 were delivered to Juan Maramag (1947) on the same condition of not paying any canon during the first three years, and Guillermo Nadal has already finished clearing said lot No. 5; and that he (the applicant) received Exhibit H from Policarpo Eclipse.

These statements of Francisco Bassig have been substantially corroborated by Porfirio Dayag who said that Cipriano Maribbay was tenant of Francisco Bassig in the land at Callao-Aggugaddan and that in the years 1946, 1947 and 1948 he received from Cipriano Maribbay the canon consisting of corn which he transported in a raft along the Picanauan river to the house of Francisco Bassig.

Pantaleon Caina and the notary public Honorio P. Reyes before whom Exhibit I was executed, also corroborated the testimony of the applicant, who produced Exhibit J, Declaration of Real Property (Rural) No. 17910, issued on December 5, 1939, to cover the former land of Policarpo Eclipse of 117,160 square meters deeded to Francisco Bassig (Exhibit I); Exhibit K, Tax Receipt for the lots in question for the year 1932, paid by Policarpo Eclipse; Exhibit K-1, another Tax Receipt for the same lots for half of 1938 and 1939; Exhibit K-2, Tax Receipt for the same lots for 1940 in the name of Francisco Bassig; and other tax receipts for the same lots also in the name of Francisco Bassig (Exhibits K-3, K-4, K-5 and K-6).

The evidence submitted by the private oppositors tends to show that Cipriano Maribbay bought lot No. 7 from Policarpo Eclipse in 1930, although it is claimed that the document executed therefor was lost; that he has been in possession of this lot since then up to the present, his tenant being his brother Adriano Tanguilan; that Maribbay constructed a "camarin" (warehouse) on the lot and that after the war he constructed his house; that he has not received this lot from Francisco Bassig and never paid him any canon for the same. He (Maribbay) submitted Declarations of Real Property (Exhibits 1 and 2) issued on January 3, 1929, and May 17, 1947, and Exhibit 3 which bears no date. The applicant, however, states that the boundaries mentioned in these exhibits do not coincide with the boundaries of lot No. 7.

Abelardo López, who claims lot No. 4, stated that he has possessed this lot for nearly 20 years and that he acquired the same from his father, Vicente López, and produced in this connection Exhibit 5, which is Tax Declaration of Real Property No. 549-A. Applicant contends that the boundaries given in this Exhibit 5 are very different from those of lot No. 4.

Guillermo Nadal claims for him lot No. 5 and stated that he acquired this lot from his father and has been in possession thereof for 20 years. To support his claim he produced Declarations of Real Property (Exhibits 7 and 8) issued in the name of Dionisio Andal and Genaro Andal respectively. Exhibit 7 has no date of issuance, and Exhibit 8 must have been issued in 1947.

Juan Maramag claims lots Nos. 1, 3 and 6, and stated that he has possessed these lots for 30 years now; that he inherited them from his grandfather Salvador Maramag, and supports his claim by Revisions of Declaration of Real Property (Exhibits 10, 11, 12, 13 and 14). Lots Nos. 3 and 6 were adjudicated to the applicant. With regard to lot No. 1, although the court believed that the evidence submitted by this claimant-oppositor shows that he was in possession of this lot, it was not adjudicated to him for the reasons stated before.

The whole contention of the Director of Lands on which the opposition of the Government is based, depends upon the testimony of witness José Valencia who testified that the land referred to in applicant's title Exhibit H is represented in the plan Exhibit Y of the Director of Lands with these words: "Andres Herrera—Composition Title No. 510—cleared", meaning to say that it is the land on the south of lots Nos. 1, 2 and 3 which is not involved in these registration proceedings. The Director of Lands has not presented any proof to establish his averment that neither the applicant nor his predecessors in interest have acquired the land involved in this case either by composition title from the Spanish Government or by possessory information title under the Royal Decree of February 13, 1894, undoubtedly because he felt it incumbent upon the applicant to show this fact.

Upon going over record, We are of the opinion that the applicant has by preponderance of evidence shown his right to the registration in his name not only of lots Nos. 3, 4, 5, 6 and 8 but also of lots Nos. 1, 2 and 7. The private oppositors have not presented any documentary evidence that can be relied upon to establish their respective pretensions, and We are satisfied that lots 1 to 8 applied for registration herein, of a total area of 103,325 square meters, are the same or included in the land that Francisco Bassig bought from Policarpio Eclipse, of an area of 117,160 square meters.

Anent the opposition of the Government, We have noticed with disgust that in many registration cases coming from the provinces, the opposition to applications for alleged lands of public domain is usually based on the ground that neither the applicants nor their predecessors in interest have composition title or possessory information title under the Royal Decree of February 13, 1894, and that

ordinarily the Government does not present any evidence on this particular point, leaving the applicants to prove this affirmative allegation of the Government. Without touching on the question of whether lands of public domain may be acquired by continued possession or prescription, We wish, however, to express our opinion that when the record shows that a certain property, the registration of which is applied for, has been possessed and cultivated by the applicant and his predecessors in interest for a long number of years without the Government taking any action to dislodge the occupants from their holdings and when these lands have passed from one hand to another by inheritance or by purchase, the Government is in duty bound to prove that the lands which it avers to be of public domain are really of said nature. We hold this opinion because after the lapse of over 60 years since the promulgation of the Royal Decree of February 13, 1894, and after the burning or destruction of public records on account of the revolution against the Spanish regime, and of several wars that have ravaged this country, it would be unjust and unfair to hold applicants duty-bound to prove that they and their predecessors in interest have been in possession of the land before 1894.

In view of the foregoing, We render judgment affirming the decision appealed from in so far as it orders and decrees the registration of lots 3, 4, 5, 6 and 8 in accordance with the provisions of the Land Registration Act (Act No. 496) in the name of Francisco Bassig, whose personal circumstances have already been given, and modifies the part of the decision in so far as lots Nos. 1, 2 and 7, which are hereby also ordered and decreed to be registered in the name of Francisco Bassig in accordance with the provisions of said Land Registration Act. Without pronouncement as to costs.

It is so ordered.

Peña and Rodas, JJ., concur.

Judgment modified.

[No. 6556-R. March 4, 1954]

IN THE MATTER OF THE INTESTATE ESTATE OF THE DECEASED ALFREDO COQUIA. SILVESTRE COQUIA Y CARANDANG, plaintiff and appellant, *vs.* SALVADOR, ALFREDO, DIONISIO, FRANCISCA, all surnamed COQUIA, minors, assisted by MARIA DALORE, guardian *ad-litem*, and GASPARA COQUIA, oppositors and appellees.

1. ACKNOWLEDGED NATURAL CHILDREN; POSSESSION OF STATUS OF NATURAL CHILDREN; WHEN NATURAL CHILDREN ARE ENTITLED TO DEMAND COMPULSORY RECOGNITION; CASE AT BAR.—Petitioners had not been legally acknowledged by their deceased father during his lifetime in any of the ways provided by the law. However, the continuous and uninterrupted possession by the

petitioners during the lifetime of their deceased father of the status of natural children entitles them to demand compulsory recognition from the heir or heirs of their natural father, considering that when their father died on October 17, 1944, all of the petitioners were still minors, and the period for the prescription of their action (2 years after attaining majority under the old Code of Civil Procedure, and 4 years under the New Civil Code) has not yet expired even with respect to the oldest among the petitioners, who, when the petition for recognition was filed in the lower court on July 27, 1949, was only 22 years old.

2. *Id.*; ACTION FOR COMPULSORY RECOGNITION MAY BE FILED IN THE INTESTATE PROCEEDINGS.—A person claiming to be an acknowledged natural child of a deceased need not maintain a separate action for recognition but may simply intervene in the intestate proceedings by alleging and proving therein his or her status as such, and claiming accordingly the right to share in the inheritance. (*Lopez vs. Lopez*, 37 Off. Gaz., No. 150, 3091; *Gaas vs. Fortich*, 54 Phil., 196; *Severino vs. Severino*, 44 Phil., 343, 348.)

3. *Id.*; NATURAL CHILD NOT LEGALLY ACKNOWLEDGED MAY INTERVENE IN PROBATE PROCEEDINGS.—One who has enjoyed the uninterrupted possession of the status of natural child, though never legally acknowledged, may maintain partition proceedings for a division of the inheritance against his co-heirs and may intervene in probate proceedings for the distribution of the estate, for the reason that in proceedings for the settlement of the estate of deceased persons, the other persons who might take by inheritance are already before the court, and the declaration of heirship is there appropriate (*Briz vs. Briz*, 43 Phil., 762; *Suarez vs. Suarez*, 43 Phil., 903; *Escoval vs. Escoval*, G. R. L-2712, October 25, 1950).

APPEAL from a judgment of the Court of First Instance of Leyte. Alo, J.

The facts are stated in the opinion of the court.

Aldaba, Astilla, De Vera & Zosa for plaintiff and appellant.

Pedro V. Talbo for oppositors and appellees.

REYES, J. B. L., Pres. J.:

In the intestate proceedings for the settlement of the estate of the late Alfredo Coquia, who died in the municipality of Alang-Alang, Province of Leyte, on October 17, 1944 (Special Proceeding No. 226 of the Court of First Instance of Leyte), Gaspara, Salvador, Alfredo, Jr., Dionisio, and Francisca, all surnamed Coquia, filed a petition to have themselves declared as the acknowledged natural children of the deceased Alfredo Coquia. As all the petitioners with the exception of Gaspara Coquia were minors, their mother Maria Dalore was appointed their guardian *ad litem* in these proceedings.

The evidence for the petitioners shows that the deceased Alfredo Coquia, who died single, had lived with Maria Dalore (mother of the petitioners and who, up to this time, is also single) as husband and wife, up to the time of his

death, and that as a consequence of their relation, nine children were born to them, the petitioners (Gaspara, 22, Francisca, 14, Dionisio, 12, Alfredo, Jr., 10, and Salvador, 7) and four others who are already dead (Manuel Geronimo, Alfredo, and Emilio); that during their union, Alfredo Coquia personally attended to his wife during the latter's deliveries and took care of their children; that Alfredo personally had his children baptized, supported them, sent them to school, gave them birthday parties to which neighbors and friends were invited, and introduced them and their mother to other people as his children and wife; that Alfredo and his family lived with his parents, Dionisio Coquia and Francisca Alves, for many years, and the latter spouses recognized and treated Maria Dalore as Alfredo's wife and their children as their own grandchildren; that in 1937, Alfredo built a house for his family and there, two other children (Dionisio and Alfredo) were born to him and Maria Dalore; and that the administratrix Silvestra Coquia, who is Alfredo Coquia's only sister, had also recognized the petitioners as her brother's children, and even personally took charge of the baptism of Alfredo's eldest child, Gaspara.

It also appears that in all the birth certificates of the petitioners (Exhibits A to A-4), the deceased Alfredo Coquia is named as their father; that Alfredo used to sign the school report cards of his daughter Gaspara (Exhibit C); and that when Alfredo filed answer in the cadastral proceedings for the registration of certain properties which he inherited from his parents, he described himself as married to Maria Dalore, petitioners' mother (Exhibits B and B-1).

The administratrix Silvestra Coquia, on the other hand, testified that her brother Alfredo Coquia never lived with Maria Dalore, mother of the petitioners; that he continuously lived and was dependent upon his parents for support; and that while sometime in 1927, Maria Dalore came to Alfredo's parents with a female child, whom she claimed to be her child with Alfredo, the latter denied that the child was his and refused to marry Maria, so that Maria had to return home to her own family. Melquiades Caldosa, witness for the administratrix Silvestra Coquia, also claimed that he had known Alfredo Coquia since 1930 and that the latter always represented himself as an unmarried man.

Convinced that the deceased Alfredo Coquia, during his lifetime, had acknowledged the petitioners as his natural children, the lower court declared them to be the acknowledged natural children of said deceased, from which judgment the administratrix Silvestra Coquia appealed to this Court.

There is no question in the lower court and in this Court that the deceased Alfredo Coquia died single and

without any impediment to marry, and that the petitioners are his natural children with Maria Dalore (Order of the lower Court dated February 8, 1950, Rec. App., p. 13; Appellant's Brief, p. 3). The only questions left for determination therefore are *first*, whether or not the petitioners had in fact been acknowledged by their deceased father as his own natural children, and *second*, whether or not the Court can declare them as such acknowledged natural children of Alfredo Coquia in this intestate proceeding, without need of their filing of a separate action for acknowledgment.

Anent the first question, the simple denials of the appellant administratrix that her deceased brother Alfredo Coquia never cohabited with petitioners' mother, Maria Dalore, can not overcome the overwhelming evidence showing that Alfredo Coquia and Maria Dalore had lived together as man and wife from 1927 up to the time of Alfredo's death and had begotten nine children during such relation. That Alfredo Coquia had considered himself as married to Maria Dalore is conclusively shown by his judicial declarations during the cadastral hearings for the registration of certain lots which he inherited from his parents (Exhibit B-1); and even the registered title of a lot which he and the appellant own in common (Exhibit B-1) describes him to be "married to Maria Dalore". (Indeed, it is hardly possible for Alfredo Coquia and Maria Dalore to have had nine children (a fact which appellant does not deny) unless they had lived together for a long period of time.

As we see from the evidence, the case before us is a clear instance of a man who, although not legally married to the woman whom he called his wife, had treated and regarded his wife and children as such, spontaneously and without concealment, in all relations of life and society. Like a true husband and father, Alfredo Coquia never left the side of his family; took care of his children, the claimants; provided for their maintenance, support, and education; built a home for them; introduced them to society as his own legitimate family; and performed towards them other analogous acts necessarily characteristic of a husband and a father. And the civil registry records, Exhibits A to A-4, are clear proof that Alfredo Coquia did not hide the fact that the claimants were his children, for he permitted his name and quality as father to be entered in public records for all to see.

It even appears that not only Alfredo Coquia, but his parents as well, had accepted the petitioners and their mother as Alfredo's rightful family, for the evidence discloses that Alfredo, with his wife and children, had lived for many years under the roof of his own parents, and that the latter treated and regarded Alfredo's children as their own kith and kin.

It is no objection that the father's conduct towards his natural children should be attended by some secrecy, for

as we have said in *Almodovar vs. Ocampo*, C. A.-G. R. No. 7826-R, August 31, 1951, one may not reasonably expect that the relations between the parent and his natural children (who after all are illegitimate) should be attended by the same ostensibleness and publicity that is shown toward illegitimate offspring.

We are thus satisfied that, even under the strict standards of the old Civil Code, the petitioners had enjoyed the continuous status of natural children of Alfredo Coquia, from the time of their birth up to the death of their father, by direct acts of the latter and of his family. True that, as argued by the appellant, petitioners had not been legally acknowledged by their deceased father during his lifetime in any of the ways provided by the law ("in the record of birth, in a will, or in some other public document", requires the Civil Code of 1889, article 131); but clearly enough, the continuous and uninterrupted possession by the petitioners during the lifetime of their deceased father of the status of natural children entitles them to demand compulsory recognition from the heir or heirs of their natural father, considering that when their father died on October 17, 1944, all of the petitioners were still minors (article 137, old Code; article 285, new), and the period for the prescription of their action (2 years after attaining majority under the old Code of Civil Procedure, and 4 years under the New Civil Code) has not yet expired even with respect to Gaspara Coquia, the eldest among the petitioners, who, when this petition for recognition was filed in the lower Court on July 27, 1949, was only 22 years old.

We now come to the second question raised herein: Whether or not a judicial declaration that the petitioners are the acknowledged natural children of the deceased Alfredo Coquia can be made in these intestate proceedings. This question must be answered in the affirmative, for the rule is well-settled that "a person claiming to be an acknowledged natural child of a deceased need not maintain a separate action for recognition but may simply intervene in the intestate proceedings by alleging and proving therein his or her status as such, and claiming accordingly the right to share in the inheritance" (*Lopez vs. Lopez*, 37 Off. Gaz., No. 150, 3091; *Gaas vs. Fortich*, 54 Phil., 196; *Severino vs. Severino*, 44 Phil., 343, 348). In fact, it has even been repeatedly held that one who has enjoyed the uninterrupted possession of the status of natural child, *though never legally acknowledged*, may maintain partition proceedings for a division of the inheritance against his coheirs and may intervene in probate proceedings for the distribution of the estate, the reason for both rules being that in proceedings for the settlement of the estate of deceased persons, the other persons who might take by inheritance are already before the court, and the declara-

tion of heirship is there appropriate (*Briz vs. Briz*, 43 Phil., 762; *Suarez vs. Suarez*, 43 Phil., 903; *Escoval vs. Escoval*, G. R. L-2712, October 25, 1950). The rule especially holds true in this case where the appellant administratrix Silvestra Coquia, being the only sister of the deceased Alfredo Coquia, would be the sole legal heir to all the properties left by Alfredo Coquia, unless the civil status and right of heirship of the petitioners to their father's inheritance are herein determined.

Wherefore, the decision of the lower Court is affirmed, with costs against Silvestra Coquia.

Ocampo and Pecson, JJ., concur.

Judgment affirmed.

[No. 10214-R. March 5, 1954]

TRANQUILINO O. CALO, JR., ET AL., petitioners, *vs.* PROVINCIAL SHERIFF OF LAGUNA ET AL., respondents

1. INJUNCTION; DAMAGES; DAMAGES SUFFERED BY REASON OF ISSUANCE OF INJUNCTION.—Where the damages allegedly suffered by respondents by reason of the issuance of a writ of preliminary injunction consist of loss due to their failure to possess, cultivate and harvest the fruits of the lots involved in the main action, and it resulted from the judgment entered in that action that the transaction upon which respondents based their right to possess and harvest the fruits of such lots was only an equitable mortgage and not a sale with right to repurchase, HELD: That the respondents have no right to claim damages, for the right to the fruits of a property, *jus fruendi*, and the right to possess the same, *jus possidendi*, are attributes of ownership which could only be claimed, enforced and enjoyed by the owner.
2. ID.; ID.; ID.; COURT MAY DETERMINE CLAIM FOR DAMAGES AFTER JUDGMENT HAS BECOME FINAL.—The rule that claim for damages resulting from the improper issuance of a writ of preliminary injunction must be applied for and obtained in the principal action, and that judgment for such damages must be included in the final judgment in such action, does not necessarily preclude the right of the Court to determine the claim after that judgment has become final. So long as the claim for damages was filed before the judgment in the principal action has become final, and that judgment is still under the Court's control, such Court could reopen the action to permit the entry of damages (Rule 60, section 9, Rules of Court; *Santos vs. Moir*, 36 Phil., 350; *Japco vs. City of Manila*, 48 Phil., 851; *Somes vs. Crossfield*, 9 Phil., 13; *Macatangay vs. The Municipality of San Juan de Bocboc*, 9 Phil., 19).

ORIGINAL ACTION in the Court of Appeals. Prohibition with Preliminary Injunction.

The facts are stated in the opinion of the court.

Tranquilino O. Calo, Jr., and Zosino D. Zanoliga for petitioners.

Mabanta & Ysip for respondents.

NATIVIDAD, J.:

Respondents Regino Relova and Teodula Bartolome ask for judgment against the petitioners in the amount of P2,093, alleged to represent the damages suffered by them as a result of the issuance in this proceeding of a writ of injunction, which, upon the dismissal of this proceeding on December 24, 1952, was dissolved, enjoining the former to refrain from depriving the latter of the possession of the lots involved in Civil Cases Nos. 7951 and 7989, Court of First Instance of Laguna, CA-G. R. Nos. 8291-R and 8292-R of this Court, between the same parties, which were pending in this Court. Such damages are made to consist in the value of the produce of the lots which said respondents failed to receive, wasted expenses for seedlings and farm labor, value of a roll of barbed wire fence, attorney's fees and exemplary damages. The answer of the petitioners consists of specific denials and special defenses.

In a resolution dated March 16, 1954, this Court, upon motion of the petitioners, commissioned the Clerk, Court of First Instance of Laguna, to receive the evidence that the parties may care to produce in connection with such claim for damages. That official, after hearing the evidence of the parties, submitted his report on January 25, 1953. Further action, however, on this report was held in abeyance due to the pendency of the civil actions above-referred to.

On June 16, 1953, while the report above-referred to was pending consideration, the Fourth Division of this Court entered in Civil Cases CA-G. R. Nos. 8291-R and 8292-R a judgment, the dispositive part of which reads as follows:

"In view of the foregoing, we hereby reverse the decision appealed from and hold that the transaction represented by Exhibits F and G was an equitable mortgage and not a sale with right to repurchase which entitled the appellants to redeem the land upon payment of the sum of P2,700, plus legal interest at the rate of 6 per cent per annum from 1945 when said appellants repossessed the land in question to the date of the redemption. The third party defendants are hereby absolved from the complaint. Without costs."

Not satisfied with this judgment, respondents Regino Relova and Teodula Bartolome brought the case to the Supreme Court on a writ of certiorari. The proceedings were docketed as Civil Cases G. R. No. L-7336 and L-7337 of that Court.

On March 30, 1953 the Clerk of this Court, evidently overlooking the fact that a claim for damages had been filed by the respondents and that said claim was still pending determination, issued an entry of final judgment in this proceeding.

In view of these developments, petitioners filed under date of September 30, 1953, a motion asking that respondents' claim for damages be dismissed, on the following grounds: First, that in view of the judgment rendered by

the Fourth Division of this Court in the civil cases above-referred to, respondents have already lost their right to claim such damages, and second, that this Court, because of the entry of a final judgment in this proceeding, had already lost jurisdiction to entertain such claim. Further action on this motion was also held in abeyance in the meantime that respondents' petition for certiorari has not been finally determined.

On January 6, 1954, the Supreme Court issued a resolution of the following tenor:

"The petition filed in G. R. Nos. L-7336-7337, Regino Relova, et al., vs. The Court of Appeals, et al., to review on certiorari the decision of the Court of Appeals, is dismissed for raising factual questions and for lack of merit."

Upon the strength of this resolution, on January 28, 1954, the Clerk of this Court entered a final entry of judgment in Civil Cases CA-G. R. Nos. 8291-R and 8292-R, and remanded the records of the cases to the court of origin.

In view of the fact that the judgment of this Court in Civil Cases CA-G. R. Nos. 8291-R and 8292-R is now final, the consideration of petitioners' motion of September 30, 1953, is in order.

The Court is of the opinion that the first ground of petitioner's motion is well-taken. The claim for damages allegedly suffered by respondents Regino Relova and Teodula Bartolome by reason of the issuance of the writ of preliminary injunction in this proceeding, is based, in the main, on their failure to possess, cultivate and harvest the fruits of the lots involved in Civil Cases Nos. 7951 and 7989, Court of First Instance of Laguna, CA-G. R. Nos. 8291-R and 8292-R of this Court. The judgment of the Fourth Division of this Court that the transaction, upon which the respondents based their right to possess and harvest the fruits of such lots, was only an equitable mortgage and not a sale with right to repurchase, and that the judgment is now final and executory, it is clear that the petitioners never ceased to be the owners of those lots, and their right to possess them during the period that the writ of preliminary injunction issued in this proceeding was in force, is unquestionable. Hence, said respondents had no right to possess the property or harvest the fruits thereof; for the right to the fruits of a property, *jus fruendi*, and the right to possess the same, *jus possidendi*, are attributes of ownership which could only be claimed, enforced and enjoyed by the owner.

The above conclusion renders unnecessary the further consideration of the second ground of petitioners' motion. However, the Court will offer a few remarks on the question raised. Petitioners' contention that this Court has lost jurisdiction to entertain respondents' claim for damages is untenable. The rule that claim for damages resulting from the improper issuance of writs of preliminary

injunction must be applied for and obtained in the principal action, and that a judgment for such damages must be included in the final judgment in the principal action, does not preclude the right of the Court to determine such claim, after such judgment has become final. The authorities hold that so long as the claim for damages was filed before the judgment in the principal action has become final, and that judgment is still under the Court's control, such Court could reopen the action to permit the entry of damages (Rule 60, Sec. 9, Rules of Court; *Santos vs. Moir*, 36 Phil., 350; *Japco vs. City of Manila*, 48 Phil., 851 *Somes vs. Crossfield*, 9 Phil., 13; *Macatangay vs. The Municipality of San Juan de Bocbok*, 9 Phil., 19). This proceeding is an original proceeding in this Court, and respondents' claim for damages was filed before the judgment entered therein has become final. Under the law, therefore, the entry of final judgment in this proceeding neither deprived this Court of control over its judgment nor of jurisdiction to reopen the proceeding, and should it find the damages claimed to be meritorious, permit their inclusion in such judgment.

For the foregoing, the Court hereby dismisses the claim for damages filed by the respondents Regino Relova and Teodula Bartolome in the instant proceeding. No pronouncement is made as to costs.

It is so ordered.

Reyes, Pres. J., and Paredes, J., concur.

Petition dismissed.

[No. 6200-R. March 6, 1954]

HILARIA GALINDO and DALMACIO SAYONG, plaintiffs and appellants, *vs.* EUFROSINA SAYONG and ENGRACIO COMPIO, defendants and appellees.

PLEADING AND PRACTICE; DEFAULT; SETTING ASIDE OF ORDER OF DEFAULT.—Counsel for appellants argues that the lower court should not have lifted its order of default. A judgment by default is not based upon the merits of the dispute. It is exercised as a means of requiring the defendant to join issue upon the averments raised by the plaintiff and to do so without unnecessary delay. This kind of judgment may amount to a positive and considerable injustice to the defendant; and the possibility of such serious consequences necessitates a careful and liberal examination of the grounds upon which the defendant may seek to set it aside (*Coombs vs. Santos*, 24 Phil., 445, 449-450). Defendants in the instant case, having not only a meritorious defense but also satisfactory grounds for the lifting of the order of default, said order should be set aside.

APPEAL from a judgment of the Court of First Instance of Leyte. *Rodriguez, J.*

The facts are stated in the opinion of the court.

Leon C. Cuevas for plaintiffs and appellants.

Victoriano Y. Nalus for defendants and appellees.

PEÑA, J.:

This is an action for reconveyance and damages. According to the plaintiffs they are the owners of a parcel of land situated in *sitio* Liptong, *barrio* Taquin, Burauen, Leyte, having purchased the same from one Anselmo Aterrado on December 11, 1913, which land is more particularly described as follows—

"A parcel of land situated at *sitio* Liptong, *barrio* Taquin, Burauen, Leyte, containing an area of ten hectares more or less, planted with coconuts, abaca and corn; declared for purposes of taxation under Tax Declaration No. 19504 in the name of Victoriano Sayong and assessed at P540 and bounded as follows: North—Timoteo Raga and others; east—Francisco Regero and Zacarias Milo; south—forest; and west—Timoteo Raga; said land being now lots Nos. 11117 and 11118 respectively of the Burauen Cadastral Survey."

They also aver that in 1940 when a cadastral court was holding sessions in the aforesaid municipality, they had delegated Julita Relador, wife of one Felix Sayong and plaintiff's daughter-in-law, to appear before the court and make representations that the parcels of land, now known as lots Nos. 11117 and 11118, are their properties share and share alike. However, they further claim that Julita Relador, instead of complying with instructions given to her by plaintiffs, by means of fraud and deceit, made the cadastral court believe that said lots were her conjugal properties together with Felix Sayong, in spite of her knowledge that the same belong to the plaintiffs who have been in open, peaceful continuous and uninterrupted possession thereof for a period of more than thirty years, which fact, plaintiffs also allege, was known to the defendants. They, therefore, pray the trial court in their amended complaint—(1) to render decision in favor of plaintiffs ordering the defendants to return, retransfer, execute the necessary instrument of reconveyance to effect the transfer; (2) in default thereof, to pay plaintiffs the amount of P7,000 value of the property; (3) to order the Register of Deeds of the Province of Leyte to cancel the original certificate of title of the above-mentioned lots and order the registration of the same in the name of the plaintiffs, share and share alike; and (4) to award them any remedies just and equitable in the premises, and to pay the costs.

Upon motion of plaintiffs, the defendants were declared in default by the lower court in its order of August 6, 1949, which was, however, set aside on August 13, allowing the defendants to file their answer, which they did, claiming in turn that plaintiffs never authorized Julita Relador, their deceased mother, to appear before the cadastral court; that they are the owners of the lands in question covered by Original Certificate of Title No. 31981 in the name of their deceased parents for more than 9 years now, or since April 15, 1940; and that they have been in possession of the lands in concept of owners upon the death of their parents whose

possession thereof, which was continuous and uninterrupted, dates since 1932.

After due hearing, the trial court rendered judgment, the dispositive part of which reads as follows—

"Premises considered, judgment is hereby rendered in favor of the defendants and against the plaintiffs declaring the defendants owners of the land in question, covered by certificate of title No. 31981, in the name of their parents, the spouses Felix Sayong and Julita Relador, with costs against the plaintiffs."

From the aforesaid decision, plaintiffs by way of a pauper's appeal, come before Us, praying—

(a) That the judgment of the lower court be reversed declaring the plaintiffs-appellants as owners of the land pro-indiviso with one half to the conjugal partnership of Damaso Sayong and Hilaria Galindo and the other half to Dalmacio Sayong, single, Filipino and resident of Burauen, Leyte;

(b) Ordering the defendants-appellees to execute the necessary instrument to effect reconveyance of the land in question;

(c) To pay the damages which plaintiffs-appellants failed to realize because of the deprivation of their property right; and

(d) To pay the cost for the proceedings and any other remedy, just and equitable in the premises.

The parcel of land in dispute are resigned as lots Nos. 11117 and 11118 of the Burauen Cadastre and are covered by Certificate of Title No. 31981 which was issued in favor of the spouses Felix Sayong and Julita Relador, who are the deceased parents of defendants, it having been established, as found by the cadastral court, by competent evidence that the possession of the lots by their claimants has been open, actual, public, continuous, and adverse, under claim of title within the time prescribed by law (Sup. Dec. Adjudicating Non-contested lots, p. 12, record). Felix Sayong and Julita Relador died on December 8, 1938, and November 11, 1941, respectively.

The record shows that it was only on June 2, 1949, when plaintiffs filed a complaint in the Court of First Instance of Leyte seeking for the reconveyance of the land in dispute as well as damages. It does not, however, appear in what year was the decree of registration issued, from the date of the issuance of which the statutory limitation of one year for the filing of an action of reconveyance should be reckoned with. This is of course upon the assumption that there was fraud or breach of trust committed by Julita Relador against her parents-in-law. Unfortunately, Julita Relador's lips had long been sealed by death when her parents-in-law accused her of such breach of trust. To check the veracity of this accusation, We could no longer resort to Julita, but only rely upon plaintiff Hilaria Galindo who fatally testified, thus—

Q. Did you receive any notice regarding the survey of this land.

—A. Yes.

Q. Your land was also heard by the Cadastral Judge of the Cadastral Court.—A. Yes.

Q. When the case was called for trial, did you go to the Court, regarding this parcel of land.—A. It coincided to the time when I was ill. I delegated Antonio Sayong, that he may appear before the court, because I was ill. (t. s. n., p. 31.)

Nothing could be more reliable than the aforequoted testimony of one of the plaintiffs who, according to them, they are the owners of the land in dispute. It is clear from this that it was not Julita Relador who was entrusted to make representations as regards the parcels of land, for which reason, no trust could ever be breached by her. Be that as it may, her answer to a question propounded to her by her lawyer deepens her blunder, for she said

"My delegation was not carried out because Julita Relador advised me that it is better not to delegate him to appear before the court, because he might make any mistake; and he could not testify well before the Court".

Plaintiffs cannot bring an action against the successors-in-interest of Julita Relador, for that right became unenforceable upon the latter's death (*Severino vs. Severino*, 44 Phil., 343). Moreover, to entertain plaintiffs' allegation, the credibility of which could no longer be tested by Julita Relador's testimony, would be creating a dangerous precedent to undermine the definiteness and finality of the Torrens system of registration by the simple expedient of imputing a breach of trust against a person whose lips had been sealed by death. Furthermore, the truthfulness of the imputation is beclouded by the lack of any written note to support plaintiffs' contention. Indeed, it is so easy to state that one who has departed for the great beyond, was by word of mouth entrusted to carry out a certain instruction, and courts should be reluctant to entertain such bare allegation, especially when, like in the instant case, the object of the controversy is a land registered under the Torrens System.

Finally, counsel for appellants argues that the lower court should not have lifted its order of default. A judgment by default is not based upon the merits of the dispute. It is exercised as a means of requiring the defendant to join issue upon the averments raised by the plaintiff and to do so without unnecessary delay. This kind of judgment may amount to a positive and considerable injustice to the defendant; and the possibility of such serious consequences necessitates a careful and liberal examination of the grounds upon which the defendant may seek to set it aside (*Coombs vs. Santos*, 24 Phil., 446, 449-450). In the instant case, defendants have not only a meritorious defense but also satisfactory grounds for the lifting of the order of default which, according to the trial court, was premature, the same having been issued pending the resolution of a motion for reconsideration of a previous order of the trial court denying the dismissal of the original complaint.

Wherefore, the judgment appealed from being in accordance with law and the evidence is hereby affirmed, with costs against appellants.

It is so ordered.

Felix and Rodas, JJ., concur.

Judgment affirmed with costs.

[No. 12427-R. March 24, 1954]

LEONARDO ALOSOS Y ESGUERDO, petitioner, *vs.* HONORABLE MANUEL M. MEJIA, Judge of the Court of First Instance of Manila, respondent.

1. PLEADING AND PRACTICE; APPEAL; MODE OF APPEAL MUST BE STRICTLY ADHERED TO.—Unless the mode of appeal prescribed by the Rules of Court is strictly adhered to, the appeal is not perfected and the appellate court does not acquire jurisdiction over the case (U. S. *vs.* Tenorio, 37 Phil., 7; People *vs.* Natividad 63 Phil., 326).
2. *Id.*; *Id.*; NOTICE OF APPEAL MUST BE IN WRITING.—The petitioner did not file a written notice of appeal from the judgment and serve a copy thereof to the prosecuting attorney within the period prescribed by law. He confined himself to giving a verbal notice of appeal in open court immediately after the judgment was promulgated, and to filing an appeal bond in the amount fixed by the Court; *Held*, petitioner failed to adhere to the mode of appeal prescribed by law and the appeal taken by him from that judgment has not been duly perfected.

ORIGINAL ACTION in the Court of Appeals. Mandamus with preliminary writ of injunction.

The facts are stated in the opinion of the court.

Pacifico I. Guzman for petitioner.

City Fiscal Eugenio Angeles and *Assistant Fiscal Jose B. Jomenez* for respondents.

NATIVIDAD, J.:

This is a petition for a writ of mandamus with preliminary injunction. Its purpose is to compel the respondent to desist from executing his judgment of conviction in Criminal Case No. 20617, Court of First Instance of Manila, People *vs.* Leonardo Alosos, and to certify to this Court the records of the case for purposes of the appeal which, it is alleged, the petitioner perfected from that judgment.

It appears that on October 21, 1952, an information charging the petitioner, Leonardo Alosos y Esguerdo, with the crime of corruption of minors was filed in the Court of First Instance of Manila, the case having been docketed as Criminal Case No. 20617 of that Court. After trial, judgment was rendered in the case finding the petitioner guilty of the crime charged and sentencing him to suffer the indeterminate penalty of from 4 months and 20 days of *arresto mayor* to 2 years, 11 months and 10 days of *prisión correccional*, with the accessories of the law, and to

pay the costs. This judgment was promulgated on January 27, 1954. Immediately after the promulgation of the judgment, the petitioner, thru counsel, made of record in open court his intention to appeal therefrom and asked that the amount of his appeal bond be fixed. Record of this proceeding was entered by the Clerk of Court in his minutes. The respondent, upon recommendation of the prosecuting attorney, fixed the appeal bond at P4,000. On that same date, the petitioner filed an appeal bond in that amount which was approved by the Court. Notwithstanding these proceedings, the records of the case were not forwarded to this Court, and on February 12, 1954, the respondent, finding that his judgment in the case had already become final, issued an order commanding the petitioner to appear in Court on February 18, 1954, at 8:30 a.m., for commitment to prison under that judgment. Hence, this proceeding.

Petitioner concedes that he has not filed with the trial court any written notice of appeal from the judgment in question, with service of copy thereof to the adverse party, within the 15-day period prescribed by law from the promulgation of the judgment. He contends, however, that in the instant case there has been substantial compliance with the requirements of the law, and his appeal should be given due course.

We are of the opinion that petitioner's position is not well-taken. The law specifically prescribes the mode of taking appeals from judgments in criminal actions. Section 3, Rule 118, Rules of Court, provides:

"An appeal shall be taken by filing with the court in which the judgment or order was rendered a notice stating the appeal, and by serving a copy thereof upon the adverse party or his attorney."

And section 6 of said rule, reads in part:

"An appeal must be taken within fifteen days from the rendition of the judgment or order appealed from." * * *

The Supreme Court, commenting on the above provisions of law, has held in a number of decisions that unless the mode of appeal therein prescribed is strictly adhered to the appeal is not perfected and the appellate court does not acquire jurisdiction over the case. In the case of *U. S. vs. Tenorio* (37 Phil., 7), the Court said:

"* * * the word 'filing' as used in the rule (Rule 118, section 3) can be construed only as requiring a placing or depositing with the clerk a written notice of intention to take an appeal. It is obvious, therefore, that giving notice in open court that appellant intends taking an appeal is an essentially different proceeding from filing such notice with the Clerk of Court.

"It is elementary law that where the statute points out a particular mode for taking the appeal, that mode must be strictly adhered to in order to confer jurisdiction upon the appellate Court".

And in the case of *People vs. Natividad* (63 Phil., 336) it was held:

"* * * appeals in criminal cases do not take place and are not considered perfected until after the interested party or parties, has

personally or through his attorney, filed with the clerk of court a written notice expressly stating the appeal. (U. S. *vs.* Tenorio, 37 Phil., 7; U. S. *vs.* Sotavento and Sotavento, 40 Phil., 176.)

As we analyze the facts of this case in the light of the above doctrine, the petitioner has not perfected a valid appeal from the judgment in question. As stated elsewhere in this opinion, it is conceded that the petitioner failed to file a written notice of appeal from that judgment and to serve a copy thereof to the prosecuting attorney within the period prescribed by law. The petitioner confined himself to giving a verbal notice of appeal in open court immediately after the judgment was promulgated with a request that the amount of his appeal bond be fixed, and after the respondent had fixed the amount of the appeal bond, he only filed an appeal bond in the amount fixed by the court. It is clear, therefore, that the petitioner failed to adhere to the mode of appeal prescribed by law in such cases, a condition which is essential to perfect a valid appeal from that judgment.

It is, however, contended that in the instant case there has been a substantial compliance with the requirements of the law, and, consequently, petitioner's shortcomings should be excused, and he should not be deprived of a fundamental right. In support of this claim, the petitioner invokes the doctrine laid down in the case of U. S. *vs.* Sotavento and Sotavento, *supra*. The contention cannot be sustained. The ruling laid down in the case invoked by the petitioner is not applicable to the instant case. In that case, the accused filed a written notice of appeal from the judgment convicting him of the crime therein charged within the period prescribed by law. Their only fault consisted in their failure to serve a copy of the notice of appeal to the prosecuting attorney. Hence, the Court, considering that the accused in that case were ignorant persons and when they presented their notice of appeal they were not assisted by counsel, held that their fault was excusable, and that they have substantially complied with the requirements of the law. In the instant case, there is no showing that the petitioner is an ignorant man. He was assisted by counsel when he made of record orally in open court his notice of appeal. He had the means and plenty of time to file a written notice of appeal and serve a copy thereof to the prosecuting attorney. Yet he failed to do so. The facts of the instant case, therefore, are not even similar to those of the case of Sotavento invoked by the petitioner, and, consequently, the ruling in the latter case is not decisive of the issue raised in the instant case.

Wherefore, the instant proceeding is hereby dismissed, with the costs taxed against the petitioner.

It is so ordered.

Paredes and De Leon, JJ., concur.

Proceedings dismissed with costs taxes against petitioner.

[No. 8537-R. March 25, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellant,
vs. TIMOTEO CRUZ *alias* Capt. Tommy, LORENZO SAMANO
alias Luring, DOMINADOR MANLUTAC *alias* Doming,
"PETER DOE", "WILLIAM DOE" and "GEORGE DOE" (the
last three at large), defendants. TIMOTEO CRUZ and
LORENZO SAMANO, appellants.

CRIMINAL LAW; EVIDENCE; WITNESSES; CREDIBILITY OF WITNESSES;
EXCEPTION TO THE RULE THAT CREDIBILITY OF WITNESSES IS LEFT
TO THE OBSERVATION OF THE TRIAL JUDGE.—The question of cred-
ibility of witnesses is usually left to the keen observation of
the trial judge who is in a better position than the appellate
court to judge on the demeanor and gauge the veracity of
the witnesses testifying before him. But where, in view of
the facts and circumstances of the case, the theory of the pro-
secution is so full of improbabilities that no basis exists to
uphold the verdict of conviction, the findings of the lower court
may be reversed and defendants acquitted on reasonable doubt.

APPEAL from a judgment of the Court of First Instance of
Rizal. Gatmaitan, J.

The facts are stated in the opinion of the court.

Antonio Barredo and Alfredo B. Concepcion for accused
and appellants.

Assistant Solicitor General Lucas Lacson and Acting
Solicitor Antonio M. Consing for plaintiff and appellee.

FELIX, J.,

According to the evidence of the prosecution, as narrated
in the brief of the Government, at past 5:00 p.m. on
January 8, 1950, while José Roxas was at his house, Cirilo
Morales arrived and asked him if he was interested in
buying carabao. Roxas answered in the affirmative, pro-
vided the carabaos were covered with certificates of owner-
ship. Morales then said that Capt. Tommy and Loring
(referring to Timoteo Cruz and Lorenzo Samano, respec-
tively) had carabaos for sale, whereupon Roxas and Morales
went to the house of Capt. Tommy at Isarog Street, Quezon
City, in Roxas' car driven by his driver Roberto de los
Santos. At Capt. Tommy's house he met the latter, Samano
and Dominador Manlutac. Roxas was told that there were
three truckloads of carabaos at Marulas, Polo, Bulacan,
where they were kept to avoid the check-points, and it
was suggested that Roxas go home and get his money so
that in case they agreed as to the price, he would not have
to go back for the money. Roxas went home and took with
him ₱7,300, returning to Capt. Tommy's house. The group
then left for the place where the carabaos were supposed
to be found. The group included Mr. Roxas, his driver De
los Santos, Timoteo Cruz, Lorenzo Samano, Dominador
Manlutac and Cirilo Morales. They took A. Bonifacio
Street, and as they reached beyond the Halili Brewery, Capt.
Tommy ordered the driver to turn to the left, stating that

that was a short-cut by way of the 7th Avenue, Caloocan, Rizal. The driver obeyed, but they had not gone far when Capt. Tommy ordered the driver to stop so that he would urinate. When the car stopped Capt. Tommy pointed a gun at the chest of Roxas and, with Samano aiding him, took the money of Roxas from his pocket, P7,300 in cold cash. At the same time Canlutac was also covering the driver with a gun. Manlutac then got the ignition key and the trio (Cirilo Morales was left) boarded a car that passed by just after the hold-up. However, De los Santos was able to start the car because Manlutac made a mistake in not putting off the switch. They went to Caloocan municipal building and reported the matter to the police. Det. Sgt. Isagani Cordero investigated José Roxas, the driver and Cirilo Morales. He also investigated Lorenzo Samano after his arrest who made and signed a statement (Exhibit P-1).

Because of this incident a complaint was filed on January 9, 1950, before the Justice of the Peace Court of Caloocan against the alleged "hold-upers," who waived preliminary investigation, and the case was elevated to the Court of First Instance of Rizal, Caloocan Branch, where the corresponding information against the person named in the caption as accused were charged with the crime of robbery. At the time of the hearing Dominador Manlutac had died and the case against him had to be dismissed. The case was tried against Timoteo Cruz and Lorenzo Samano only because the other defendants remained still at large. After hearing the court rendered judgment finding Timoteo Cruz and Lorenzo Samano guilty of robbery under article 294, paragraph 5, of the Revised Penal Code, with the aggravating circumstances of nighttime and craft and with the special circumstance mentioned in article 295, and sentenced each of them to the indeterminate penalty of from 4 years and 2 months of *prisión correccional*, as minimum, to 8 years and 21 days of *prisión mayor*, as maximum, to indemnify the offended party José Roxas y Agrida in the sum of P7,300, jointly and severally, with subsidiary imprisonment in case of insolvency, to the accessory penalties provided by law, and to pay the proportionate costs.

From this decision both defendants appealed, praying in this instance that the verdict of conviction be reversed and that the accused-appellants be acquitted, with costs *de oficio*, because the theory of the prosecution is full of improbabilities.

Appellant Timoteo Cruz, otherwise known as Capt. Tommy, a notorious character in the community for his alleged acts of gansterism, denied the robbery charge and testified that one day he and his co-appellant Lorenzo Samano held a gambling in his house where Cirilo Morales acted as banker and in which José Roxas participated and lost P7,000; that at around 6:00 p.m., a woman whom he later came to know as the wife of Roxas, went to his house ap-

parently looking for her husband because he got their money and lost it in gambling.

Lorenzo Samano corroborated his co-appellant's testimony regarding the gambling and further testified that when the gambling was over Roxas told him that he (Roxas) had a feeling that he was cheated. With regard to the signed statement (Exhibit P-1) Samano admitted having signed the same, though he claimed to have done so because of threats and without reading its contents.

Mariano Isip, a member of the Quezon City Police Department, declared that on the day of record a woman complained to him that her husband was being held in the house of Capt. Tommy, so he repaired to the place indicated with some policemen, and upon some inquiries thereat, he found nothing wrong and that Roxas himself was the one who assured him that everything was alright.

Doroteo R. Alandy, Detective Lieutenant of the Quezon City Police, also testified that he happened to drive to the house of Capt. Tommy because when he passed by Precinct No. 2 at barrio San José, he was informed of the report of the woman about someone being detained in the house near the corner of Halcon and Makiling, but when he arrived at the place he saw nothing wrong.

As may be seen, the question is evidently one of credibility of the witnesses which usually is left to the keen observation of the trial judge who is in a better position than the appellate court to judge on the demeanor and gauge the veracity of the witnesses testifying before him. In the case at bar, however, the following considerations must be taken into account:

(1) The offended party José Roxas and appellant Timoteo Cruz live very near to each other in Quezon City and they already knew each other as well as their respective places of abode before the date of the commission of the crime herein prosecuted.

(2) José Roxas is a dealer in carabao meat while Capt. Tommy is not; on the contrary, the latter is well known for his various records with the police, he having been formerly a sort of bodyguard or agent of the Mayor of Quezon City.

(3) Public officers, members of the Police Department of Quezon City where both Roxas and Timoteo Cruz live and who were supposed by law to be complying with their duty when they testified in court, backed up the theory of the defense. It is true that Timoteo Cruz has become quite notorious in the community for his deeds and that the press has often reported unfavorably the actions of the Quezon City Police, but there is nothing on record to gainsay their testimony that on the date in question they had been at the house of Capt. Tommy precisely on the com-

plaint of Roxas' wife and that upon investigation nothing wrong was found by them in said house.

(4) The statement of the driver Roberto de los Santos to the effect that he was able to start the car because Dominador Manlutac, who had taken the ignition key, committed a mistake in not putting off the switch when he removed said key from its lock, is evidently false, for it is known that the ignition key of a car cannot be removed from its lock without stopping the engine.

Having in mind all the foregoing facts and circumstances, the court finds very difficult to believe the theory of the prosecution. Certainly, We cannot understand how a person like José Roxas, who must know who are the dealers in carabao meat, would swallow the statement of Cirilo Morales—who according to the defense was the banker in that gambling game—that Capt. Tommy had carabaos for sale, when Roxas as a neighbor of Timoteo Cruz should know what were the business and occupation of the latter. Moreover, no person in his sound mind would hold up another who knows him and his place of residence, and the circumstances of the case tend to enhance the theory of the defense that the accusation of Roxas was in retaliation for his loss in a game in which he thought he had been cheated. Anyway, José Roxas and his driver Roberto de los Santos are the only witnesses who testified on the hold-up because Samano's statement (Exhibit P-1) cannot be used against his co-appellant.

With regard to the case of Lorenzo Samano, aside from the testimony of Roxas and his driver, the only incriminating evidence against him is his statement (Exhibit P-1), but in this statement Samano declared that it was Cirilo Morales who invited him to join the hold-up of José Roxas and denied having participated in the robbery, claiming that he had left Capt. Tommy's residence before the commission of the alleged crime. Anyway, as above stated, the circumstances tend to show that there was no hold-up and, consequently, he cannot be held responsible for something that did not happen.

Considering the evidence on record, We have no basis on which to uphold the verdict of conviction of the lower court, for the appellants are at least entitled to acquittal on reasonable doubt.

Wherefore, the decision appealed from is hereby reversed and defendants-appellants Timoteo Cruz and Lorenzo Samano are hereby freely acquitted of the charge of robbery, with costs *de oficio*.

It is so ordered.

Rodas and Peña, JJ., concur.

Judgment reversed.

[No. 11178-R. March 30, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
EXEQUIEL CRUZ, defendant and appellant

CRIMINAL LAW; FORCIBLE ABDUCTION; ABSENCE OF LEWD DESIGN;
CRIME COMMITTED—GRAVE COERCION.—Where the offended party, by means of intimidation and violence was taken for a ride by the accused and his companions, and where the latter or his companions neither molested nor attempted to molest her during the ride and the whole time she stayed with them, the accused cannot be convicted of forcible abduction in view of the absence of lewd design—an essential element in the crime of abduction. However, the accused is guilty of the crime of grave coercion pursuant to article 286 of the Revised Penal Code (*People vs. Dauatan*, Appellate Court Reports, Vol. 1, p. 429) because from the moment that he, by means of violence and intimidation, has taken and put the offended party in the truck against her will, he compelled her to do something against her will, whether right or wrong.

APPEAL from a judgment of the Court of First Instance of Rizal. Tan, J.

The facts are stated in the opinion of the court.

Manuel O. Chan for accused and appellant.

Assistant Solicitor General Francisco Carreon and *Solicitor Isidro C. Borromeo* for plaintiff and appellee.

GUTIÉRREZ DAVID, J.:

Exequiel Cruz was accused before the Court of First Instance of Rizal of having forcibly abducted Estrella Eleazar; he was found guilty and sentenced to suffer an indeterminate penalty of from 14 years, 8 months and 1 day to 17 years and 4 months of *reclusión temporal*, and to pay the costs; and has appealed to this Court seeking to reverse the condemnatory judgment on the ground that the prosecution has failed to prove his culpability beyond a reasonable doubt.

According to the offended party, Estrella Eleazar, the crime at bar was committed as follows:

About 3:00 o'clock in the afternoon of February 11, 1951, while she, Estrella, was walking along the street in barrio Polo, Pasig, Rizal, an army truck stopped in front of her. Immediately thereafter, the appellant and one of his companions, both members of the Philippine Constabulary, alighted and approached her. Appellant then asked her to accommodate him by going with him for a ride but the former refused, ran away and at the same time shouted for help. Appellant ran after her, overtook her, threatened her with his revolver, took hold of her and carried her into the army truck where appellant's other companions were waiting. The truck then speeded away in the direction of the mountain of Bulao, Cainta. On the way, the offended party cried and inquired from the appellant where they were taking her but she was told to shut up otherwise they would kill her. Upon reaching the Cainta mountains,

appellant who was then driving the truck ditched the said truck into a deep place, after which they all alighted and proceeded to a small hut in the mountain. Upon arriving at the said hut they met an old man to whom the appellant and his four other companions asked the way to the mountain of Bulao. The old man offered to accompany them to the said place and on nearing the place of Bulao, the old man who was about to leave them, was told by the accused to shout if somebody would come after them. Moments later, they heard a shout from the old man. So the appellant told his companions to go to the other side of the brook where they hid and rested. With the thought of escaping she pretended to be hungry and asked the appellant for food. The latter and some of his companions left to look for food. But before they could return, she, Estrella, asked the other companions of the appellant, who remained to watch her, that she be taken back to her house. Since it was getting dark, they acquiesced to her request and took her instead to the Philippine Constabulary barracks where she was investigated and released the next day. Appellant was later arrested and was confined in the barracks.

The account, given by the defense as to what happened on the day of the occurrence is as follows: Coming from a town fiesta celebration of a mutual friend at Taguig, Rizal, appellant together with Ernesto Padayao, Vidal Domingo, Bonifacio Bautista and Nicanor Jong, Jr., proceeded to Polo, Pasig, in an army truck to keep an appointment with Estrella Eleazar made the day before. Since they did not find her home, the appellant, with his companions, who were Philippine Constabulary men, went to their barracks and after a while returned to Polo for the same purpose. While in front of Estrella's house, they saw her coming from the opposite direction. Thereupon appellant who was then at the wheel of the army truck drove it to meet Estrella. When the truck was alongside the girl, Cruz alighted therefrom, approached and invited Estrella to take a drive with him. Estrella accepted the invitation, boarded the truck and sat beside Cruz.

The appellant drove to the Hardie Dairy Farm, a place Estrella desired to visit with him. In the course of their drive, the truck treaded on a dried creek and got stuck. The passengers of the truck thought it best to continue their excursion by foot. Upon reaching Bulao, they rested for a period of two hours, more or less, appellant chatting all the while with Estrella within the view of the rest. Feeling hungry, Estrella requested for food and appellant Cruz offered to go to Cainta with Vidal Domingo to procure the same. As night was drawing near, Estrella decided not to wait for the appellant and Vidal and requested the three others left with her to go home, which they did. Padayao, Jong and Bautista took the girl to their barracks

as it was then time for them to be in. Subsequently, Estrella Eleazar filed this complaint against appellant for forcible abduction.

Our review of the record leads us to conclude that appellant's claim to the effect that the offended party went with him voluntarily, without any compulsion on his part because he loved her, is incredible and untenable. The aggrieved party's statement that she was forcibly taken hold of, and carried by appellant into the army truck is corroborated by the testimony of eye-witness Manuel Arceo. Appellant's assertion that there was a previous appointment made by him with the girl was denied by the latter and is belied by the fact that the appellant could not find her in her home when for the first time he went there and that he had to pick her on the street on the second time he and his companions went to her place. Moreover, her prompt filing of charges before the PC Headquarters against the appellant for forcible abduction right after her arrival there also negatives the aforesaid contention of appellant. (See Exhibit "B").

We agree with the defense in that the existence of lewd designs has not been established. The records disclose that at the investigation at the PC barracks the offended party testified that neither the appellant nor his companions molested, or attempted to molest her during the ride and the whole time she stayed with them (Exhibit "B"); that she signed a certification (Exhibit "I") to that effect; and that she reiterated the same assertion while testifying in the court below. In view of the absence of this essential element, the appellant cannot be convicted of forcible abduction as charged. However, he is guilty of the crime of grave coercion pursuant to article 286 of the Revised Penal Code (People vs. Dauatan, Appellate Court Reports, Vol. I, page 429) because from the moment that he, by means of violence and intimidation, has taken and put the offended party in the truck against her will, he compelled her to do something against her will, whether right or wrong.

We, therefore, pronounce appellant guilty of grave coercion, prescribed and penalized under article 286 of the Revised Penal Code; and, there being no mitigating circumstances present, we hereby sentence him to suffer 4 months of *arresto mayor* and to pay a fine of ₱100, with subsidiary imprisonment in case of insolvency.

Thus modified the appealed judgment is affirmed in all other respects, with costs in both instances against appellant.

Rodas and Martinez, JJ., concur.

Judgment modified.